

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1214363-0

Total Deleted Page(s) = 3
Page 26 ~ Duplicate - pgs 14-12;
Page 27 ~ Duplicate - pgs 14-12;
Page 28 ~ Duplicate - pgs 14-12;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

The Attorney General

July 31, 1975

Director, FBI

RICHARD C. NAGELL
FREEDOM OF INFORMATION ACT INTER

Enclosed herewith is a copy of a letter dated July 21, 1975, with enclosure, from Mr. Richard C. Nagell.

You will note that the enclosure to Mr. Nagell's letter is a letter dated May 1, 1975, directed to him from [redacted] Esquire, of a Washington, D. C. law firm. From a reading of [redacted] letter, it is obvious that the advice which he offers is in blatant violation of the spirit and intent of the Freedom of Information Act.

I am bringing this matter to your attention as another example of abuse of the Freedom of Information Act.

For your information, we have acknowledged Mr. Nagell's letter and have advised him that this matter is being made a matter of record in our files.

Enclosures (2)

1 - The Deputy Attorney General - Enclosures (2)
Attention: [redacted]

1 - Assistant Attorney General - Enclosures (2)
Office of Legal Counsel

AHM:dw (7)

MAILED 6
AUG 1 1975
FBI

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

MAIL ROOM ☒

TELETYPE UNIT ☐

56 AUG 13 1975

ST 104

CH 45

REC-33
MCT 255

SEE NOTE PAGE 2

17 AUG 5 1975

The Attorney General

NOTE: [REDACTED] is a local attorney who has submitted several FOIA requests on behalf of his clients and in connection with his interest in the Robert F. Kennedy assassination. The information set forth in the enclosed correspondence is such an obvious abuse of the FOIA that it is felt this matter should be brought to the attention of the Attorney General.

b6
b7c

REGISTERED MAIL

July 21, 1975

Mr. Clarence M. Kelley, Director
Federal Bureau of Investigation
U. S. Department of Justice
Washington, D. C. 20535

Dear Mr. Kelley:

Reference is made to the fourth paragraph of the enclosed xerox copy of a letter dated May 1, 1975, received from [REDACTED]

I have not authorized [REDACTED] or anybody else to file suit under the Freedom of Information Act or under any other Act or law to obtain any files related to me that may be in the possession of the FBI.

Sincerely,

Richard C. Nagell
Richard C. Nagell

ENCLOSURE

91-18339-606

b6
b7C

Law Offices

b6
b7C

NEW YORK ASSOCIATES
BASS & ULLMAN
747 THIRD AVENUE
NEW YORK, N. Y. 10017

May 1, 1975

Mr. Richard Nagell
1141 Ninth St.
Manhattan Beach, Calif. 90266

Dear Dick:

[redacted] has probably written recently about developments in the Court of Claims, so I won't repeat on him.

b6
b7C

Other matters.

Enclosed is an article upon which I would like your comments, in as much detail as you have time. Could the picture be of [redacted]

Is it reasonable to assume that you have retrieved your tape from [redacted] Additionally, would it be reasonable to guess that the three of the four people are [redacted] Any chance of hearing a dub of the tape? Things are getting down to the wire here in Wasington.

✓ Have you thought of the possibility of Freedom of Information suits under the new FOI Act for files with respect to you in possession of the FBI and [redacted] If you sue and they don't produce, they have to explain why to a federal judge and, if he requires, show the file to him. It might help vis-a-vis the Court of Claims. It's another not-so-subtle form of pressure. Also might be very interesting. Give it some thought.

b7E

Warm regards.

Sincerely,

b6
b7C

BF:crr
Encl.

ENCLOSURE

91-18339-66

"TREAT AS ORIGINAL"

- Assoc. Dir. ☒
- Dep.-A.D.-Adm. ☒
- Dep.-A.D.-Inv. ☒
- Asst. Dir.:
 - Admin. ☒
 - Comp. Syst. ☒
 - Ext. Affairs ☒
 - Files & Com. ☒
 - Gen. Inv. ☒
 - Ident. ☒
 - Inspection ☒
 - Intell. ☒
 - Laboratory ☒
 - Plan. & Eval. ☒
 - Spec. Inv. ☒
 - Training ☒
 - Legal Coun. ☒
 - Telephone Rm. ☒
 - Director Sec'y ☒

Transmitted by Facsimile ☒ AIRTEL

Director, FBI (91-1833)

To: Supervisor

4240

COMMUNICATIONS SECTION

9/23/74

From: SAC, EL PASO (91-1189)

Time Transmitted

Subject

Initials

TELETYPE

☐ Fingerprint Photo ☐ Fingerprint Record

☐ Map

☐ Newspaper clipping

☐ Photograph

☐ Artists Conception

☒ Other

List of property returned to
~~RICHARD CASE NAGELL, 12/12/63~~

Special handling ☐ Hand carry to
Supervisor ☐

[Handwritten signature]
Rm 100D

Approved: _____

REC 109

91-18329-64

OCT 1 1974

ENCLOSURE

57 OCT 4 1974

"TREAT AS ORIGINAL"

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
FBI

Date: 9/23/74

PLAINTEXT

TELETYPE
(Type in plaintext or code)
NITEL

Transmit the following in

TELETYPE

Via

(Priority)

| | |
|------------------|-------|
| Assoc. Dir. | _____ |
| Dep.-A.D.-Adm. | _____ |
| Dep.-A.D.-Inv. | _____ |
| Asst. Dir.: | _____ |
| Admin. | _____ |
| Comp. Syst. | _____ |
| Ext. Affairs | _____ |
| Files & Com. | _____ |
| Gen. Inv. | _____ |
| Ident. | _____ |
| Inspection | _____ |
| Intell. | _____ |
| Laboratory | _____ |
| Plan. & Eval. | _____ |
| Spec. Inv. | _____ |
| Training | _____ |
| Legal Coun. | _____ |
| Telephone Rm. | _____ |
| Director's Sec'y | _____ |

TO: DIRECTOR (91-18339)

FROM: SAC, EL PASO (91-1189) (C)

RICHARD CASE NAGELL, AKA; STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, SEPTEMBER 20, 1963, BR, OO: EL PASO.

RE BUREAU PTS CALL SEPTEMBER 23, 1974 AND BUREAU
FACSIMILE SEPTEMBER 23, 1974.

A REVIEW OF EL PASO FILES INVOLVING RICHARD CASE
NAGELL DISCLOSED THAT ALL PERSONAL PROPERTY TAKEN BY
THE FBI, WHICH WAS NOT USED IN EVIDENCE IN COURT, HAS
BEEN RETURNED TO MR. NAGELL. THERE IS NO RECORD IN THE
EL PASO FILES FOR ANY OF THE ITEMS LISTED IN THE
FACSIMILE LETTER FROM [REDACTED]

IF THE ITEMS LISTED IN THE AFOREMENTIONED LETTER
WERE IN POSSESSION OF NAGELL AT THE TIME OF HIS ARREST
THEY WOULD HAVE BEEN MAINTAINED IN HIS PROPERTY AT THE
EL PASO COUNTY JAIL AND SENT WITH HIM AFTER HIS ORIGINAL
CONVICTION TO WHEREEVER HE HAD BEEN DESIGNATED TO GO.

REC-51

91-18339-65

(1)
EJM/psr

Approved: [Signature]

Special Agent in Charge

Sent

M

Per

U.S. Government Printing Office: 1972 - 495-574

December 17, 1963
El Paso, Texas

1

On this date Special Agent
Thomas B. White, Jr., F.B.I., El Paso
Texas, returned the following
items to Richard C. Nagell:

- 1 - California Operator License # D 890000
 - 2 - Certificate of Service with 15th U.S. Infantry
 - 3 - Brown wallet
 - 4 - Automobile Registration Card 1963 #2440
 - 5 - Social Security Card # 104-24-8340
 - 6 - Veterans Admin. letter dated 1/10/61
 - 7 - One bank check # 358 on Security 1st Nat. Bank
 - 8 - Slip of paper: award of Purple Heart -
 - 9 - Vets. Admin. Outpatient Clinic Plate
21 377 465, 3 08 05 3011 904
 - 10 - Selection Service Registration Card # 4101307
 - 11 - " " Classification Card - (5A)
 - 12 - Vets. Admin. C # 21377465
 - 13 - Citizen Service Credit Card # 3619164
 - 14 - Immunization Certificate
 - 15 - Photostat of minor artifacts: cross b6
b7C
- 7 B-25 ENCLOSURE 91-18358
- 16 - Copy of Commendation by

2

17 - ~~Le~~ ^{Snap} photos consisting of self & family.

18 - Letter dated 10/19/55 to Uncle Dick from [redacted]

b6
b7C

19 - Two Pocket Calendars

20 - Quotation by Thoreau

21 - One photo of Hagell in uniform.

22 - Photostat of ^{DD FORM 714} ~~Ames~~ 10/24/57

23 - One photo of [redacted]

24 - Numerous Calling Cards

25 - Three stamps, air mail, & two fives.

3.16

Received from hotel store this date (10/12/55)

[redacted]

[redacted]

Wetmore

Law Offices

b6
b7C

NEW YORK ASSOCIATES
BASS & ULLMAN
342 MADISON AVENUE
NEW YORK, N. Y. 10017

August 20, 1974

Mr. Clarence Kelley, Director
Federal Bureau of Investigation
Washington, D.C.

Dear Mr. Kelley:

We represent Mr. Richard Case Nagell, who is well known to the FBI.

Mr. Nagell was arrested in El Paso, in September, 1963, for bank robbery of a Federally insured bank and, consequently, was remanded to the FBI. At the time of his arrest, he was relieved of much personal property including certain notebooks and photographs. These properties were not used in his trial or in connection therewith; yet, despite numerous past efforts, he has never been able to effect the return of these personal properties, and he believes them to be of considerable value.

Mr. Nagell has asked us to represent him in regaining possession of his notebooks, photographs, etc.

As a first step toward an amicable settlement of this matter, would you consent to my viewing the material and receiving an informal explanation as to why they cannot be returned to him?

Most sincerely yours,

BF/blf

EX-1

D.C.

9 AUG 27 1974

b6
b7C

EXP. PROC.
AUG 27 1974

REC-48

91-18339-62

Hupprecht
SIX

W. L. ...

File 91-18339

28. Photocopy of a business card for Mayor Louis R. Diaz, City of Pico Rivera

29. Photocopy for [redacted] Bail Bond Agency

b6
b7C

30. Photocopy of business card for Nippon Educational Films

31. Photocopy of business card of the Los Angeles Police Department for a Sergeant [redacted] (last name illegible)



SA [redacted] FBIHQ
Washington, D.C. 9/4/74

12. A strip of paper which appears to be from a small notebook with the residence address of [redacted] and the employment address, and on the reverse the address of [redacted]
13. A slip of paper bearing the name of [redacted] and his address and telephone number
14. A slip of paper containing the name and address for [redacted]
15. What appears to be a note on a slip of paper taken from a tablet addressed to Mr. Nagell signed [redacted] requesting that he contact [redacted] or [redacted] FBI, their telephone number HU 3-3551
16. One small brown covered spiral notebook
17. Small passport size photograph bearing the name [redacted]
18. Small passport size photograph bearing the name [redacted]
19. Small passport size photograph bearing the name [redacted]
20. Small passport size photograph bearing the name [redacted]
21. An LAPD photograph [redacted] with the name [redacted] [redacted] on the reverse side
22. A business card with a photograph of a male with the legend "Turismo-[redacted] S. A."
23. Business card of [redacted] bearing pasted on Japanese or Chinese characters on the reverse side
24. Business card containing a Japanese or Chinese legend with the words "In Spades" in English under it
25. A business card bearing the name [redacted] [redacted] and some Japanese or Chinese characters
26. A photocopy of a business card for [redacted]
27. Photocopy of a business card for [redacted] Special Investigator

This is to certify that on 9/4/74 at Washington, D.C.,
Special Agent [redacted] of the Federal Bureau of Investi- b6
gation returned the following items to [redacted] which b7C
items are the personal property of Richard Case Nagell:

1. Photocopy of Army form DD-214 for Richard Case Nagell
2. Photocopy of what appears to be excerpts pertaining to commendations awarded to Nagell while in the United States Army
3. One sheet containing photocopy of Veteran Administration's letter dated 1/18/61 to Richard Case Nagell and newspaper clipping captioned "B 25 Which Crashed 11/23 had full Power, A F Believes"
4. Five pages under the heading of "Information to Date on [redacted]" b6 b7C
5. A small slip of paper which bears the name [redacted] [redacted] with what appears to be a Japanese address and some Japanese or Chinese writing
6. What appears to be a letter in Japanese or Chinese with a signature [redacted] b6 b7C
7. Photocopy containing several lists of names and penciled notations which start with item #1, [redacted] and ends with "C" - Yando Island
8. Slip of notebook paper containing three columns of numbers written in red
9. A typewritten list of various headings starting with #1, "name:", and ending with #19, "etc."
10. A strip of paper cut from a tablet which contains a listing of 9 items on one side starting with "heat control valve" and ending with #9 "turn indicators" and on the opposite side contains that which appears to be mileage information regarding oil filters, lubrication, transmission fluid, and tires
11. Typewritten listing of 30 items starting with #1, "Principles of USA Intelligence" and ending with #30 "Weapons"

*avital
SAC, EP
URG. 001
9/10/74*

Airtel

September 6, 1974

TO: SAC, El Paso (91-1189)

1 - Mr. Gilbert

FROM: Director, FBI (91-18330) - 62

1 - FOW

RICHARD CASE MAGELL, aka;
STATE NATIONAL BANK
OF EL PASO
EL PASO, TEXAS
9/20/68
BANK ROBBERY
CO: BP

Re: Airtel to Bureau dated 8/28/74.

Enclosed for El Paso is a xerox copy of a receipt reflecting the return of property taken from Richard Case Magell at the time of his arrest. This property was returned to Attorney [redacted] at ELIAS by Supervisor [redacted] on 9/2/74. The original receipt for these items will be maintained in the Bureau file.

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b7C

Enclosure

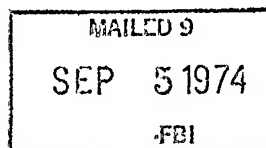
b6
b7C

NOTE: Attorney [redacted] directed letter to Director Kelley dated 8/20/74 requesting return of personal notes, photographs, etc., taken from his client Magell at time of his arrest for bank robbery in El Paso during September, 1968. The 31 items of personal property were forwarded from El Paso to the Bureau and subsequently personally returned to [redacted] on 9/4/74. Original receipt for these items is maintained in the Bureau file.

WRG:11b

(5)

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____



MAIL ROOM ☒ TELETYPE UNIT ☐

September 30, 1974

REC-61

91-18339-63

1 - Mr. Gebhardt
1 - Mr. Bates
1 -
1 - Correspondence Folder

b6
b7C

Dear

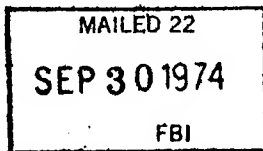
This is to acknowledge receipt of your letter dated September 17, 1974, in which you inquire as to certain items retained by the FBI during a 1963 bank robbery investigation involving Richard Case Nagell.

I have determined from a representative of our El Paso office that all Mr. Nagell's personal property taken by the FBI which was not used as evidence in court, was turned over to you on September 4, 1974, in accordance with your previous request. There is no listing in FBI records for any of the items described in your most recent letter.

Sincerely yours,

C. M. Kelley

Clarence M. Kelley
Director



NOTE SAC, EL PASO

Facsimile of Attorney letter was furnished you on 9/23/74.

b6
b7C

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Telephone Rm. _____
Director Sec'y _____

1 - El Paso (For information) (91-1189)

WRG:pac
(7)

SEE NOTE PAGE TWO

MAIL ROOM ☐

TELETYPE UNIT ☐

[REDACTED] Esq.

b6
b7C

NOTE: Attorney [REDACTED] directed a letter to Director Kelley dated 8/20/74 requesting return of personal notes, photographs, etc., taken from his client Nagell at time of his arrest for bank robbery in El Paso during September 1963. The 31 items of personal property were forwarded from El Paso to the Bureau and subsequently returned to [REDACTED] on 9/4/74. This concerns a second letter from [REDACTED] dated 9/17/74 in which he lists several additional items that his client, Richard Case Nagell, claims are missing. This letter advises [REDACTED] that all of Mr. Nagell's personal property has been returned and there is no record in FBI files of the items listed in his most recent letter.

Daw

Transmit attached by Facsimile - PLAINTEXT

Priority UrgentFEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

To: SAC, El Paso

Date: 8/27/74

From: Director, FBI (91-18339)

AUG 27 1974

Time: Transmitted - 11:55 P.M.

Subject: Richard Case Nagell
BR**TELETYPE**

Received -

☐ Fingerprint Photo☐ Fingerprint Record☐ Map☐ Newspaper clipping☐ Photograph☐ Artists Conception☒ OtherLetter to Director dated 8/20/74
from b6
b7C☐ (6 min)☐ (4 min)

Special handling instructions:

Hand carry to Supervisor Murphy.

Handle in accordance with instructions

Butelcall this date.

Approved: *CW*

Daw

Law Offices

b6
b7C

NEW YORK ASSOCIATES
BASS & ULLMAN
342 MADISON AVENUE
NEW YORK, N. Y. 10017

September 17, 1974

FBI headquarters
Bank Robbery Division
Department of Justice
Washington, D. C.

Attn: [redacted]

b6
b7C

Dear [redacted]

RICHARD CASE 0

As I predicted, Mr. Nagell believes that certain items are still missing. Here is his list:

- 1) Another "small brown spiral notebook" containing more pages and in better condition than the one returned.
- 2) Ten, possibly twelve, black and white photographs, obvious enlargements, depicting frontal and/or oblique views of separate persons, each measuring approximately 4" x 6" in size.
- 3) Two receipts for registered mail, one issued at El Paso, Texas, on 9/20/63, and the other issued prior thereto at either Beaumont, Texas, or New Orleans, Louisiana.
- 4) A typewritten letter addressed to ^{Nagell} me in my true name at my post office box (POB 76121, Sanford Station) in Los Angeles, signed by one [redacted] and dated in July 1963.
- 5) A mimeographed or offset-printed newsletter issued by a Los Angeles chapter of the Fair Play for Cuba Committee, concerning in part [redacted] (then) recent operation and hospitalization.
- 6) All items taken from inside the lining of a dark brown suit jacket, bearing the label of a clothing store located in Mexico City, on which is embroidered its name and the words "Hecho en Mexico" (which was located in my luggage, but of which ~~I~~ ^{he does} do not claim ownership).

b6
b7C

REC-61

91-18339-63

14 OCT 1 1974

SE-114

ack
9-30-74
wrb/pac

SIX

[Redacted]

Sept. 17, 1974
Page 2

b6
b7C

Would you be kind enough to check with El Paso and see if they can locate this material?

With thanks.

Sincerely yours,

[Redacted]

BF:crr

FBI

Date: 8/28/74

Transmit the following in AIRTEL
(Type in plaintext or code)

Via _____
(Priority)

TO: DIRECTOR, FBI (91-18339)
ATTENTION: BANK ROBBERY UNIT
ROOM 4240

FROM: SAC, EL PASO (91-1189) (C)

SUBJECT: RICHARD CASE NAGELL, aka.;
STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS
9/20/63
BR

OO: EP

Re EP teletype to the Bureau, 8/28/74;
Bureau FTS call to EP, 8/27/74.

A review of the El Paso file in instant matter reflects that all of the property taken from RICHARD CASE NAGELL at the time of his arrest, including that used in evidence, have been returned to NAGELL with the exception of the following items which are enclosed herewith:

1. Photocopy of Army form DD-214 for RICHARD CASE NAGELL
2. Photocopy of what appears to be excerpts pertaining to commendations awarded to NAGELL while in the United States Army
3. One sheet containing photocopy of Veteran Administration's letter dated 1/18/61 to RICHARD CASE NAGELL and newspaper clipping captioned "B 25 Which Crashed 11/28 had full Power, A F Believes"

2-Bureau (Encl. 31) (REGISTERED AIR MAIL SPECIAL DELIVERY)
1-El Paso

EJM:sf
(3)

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

53 SEP 12 1974

- ✓4. Five pages under the heading of "Information to Date on [redacted]"
- 5. A small slip of paper which bears the name [redacted] with what appears to be a Japanese address and some Japanese or Chinese writing
- ✓6. What appears to be a letter in Japanese or Chinese with a signature [redacted]
- ✓7. Photocopy containing several lists of names and penciled notations which start with item #1, [redacted] and ends with "C" - YANDO ISLAND
- ✓8. Slip of notebook paper containing three columns of numbers written in red
- ✓9. A typewritten list of various headings starting with #1, "name", and ending with #19, "etc."
- ✓10. A strip of paper cut from a tablet which contains a listing of 9 items on one side starting with "heat control valve" and ending with #9 "turn indicators" and on the opposite side contains that which appears to be mileage information regarding oil filters, lubrication, transmission fluid, and tires
- ✓11. Typewritten listing of 30 items starting with #1 "Principles of USA Intelligence" and ending with #30 "Weapons"
- ✓12. A strip of paper which appears to be from a small notebook with the residence address of [redacted] and the employment address, [redacted] and on the reverse the address of [redacted]
- ✓13. A slip of paper bearing the name of [redacted] [redacted] and his address and telephone number

b6
b7C

b6
b7C

- ✓14. A slip of paper containing the name and address for [redacted]
15. What appears to be a note on a slip of paper taken from a tablet addressed to Mr. NAGELL signed [redacted] requesting that he contact [redacted] FBI, their telephone number HU 3-3551
- ✓16. One small brown covered spiral notebook
- ✓17. Small passport size photograph bearing the name [redacted]
- ✓18. Small passport size photograph bearing the name [redacted]
- ✓19. Small passport size photograph bearing the name [redacted]
- ✓20. Small passport size photograph bearing the name [redacted]
- ✓21. An LAPD photograph [redacted] with the name [redacted] [redacted] on the reverse side
- ✓22. A business card with a photograph of a male with the legend "TURISMO- [redacted] S. A."
- ✓23. Business card of [redacted] bearing pasted on Japanese or Chinese characters on the reverse side
- ✓24. Business card containing a Japanese or Chinese legend with the words "In Spades" in English under it

b6
b7C

b6
b7C

b6
b7C

- ✓25. A business card bearing the name [redacted] and some Japanese or Chinese characters
- ✓26. A photocopy of a business card for [redacted]
- ✓27. Photocopy of a business card for [redacted] Special Investigator
- ✓28. Photocopy of a business card for Mayor LOUIS R. DIAZ, City of Pico Rivera
- ✓29. Photocopy for [redacted] Bail Bond Agency
- ✓30. Photocopy of business card for Nippon Educational Films
- ✓31. Photocopy of business card of the Los Angeles Police Department for a Sergeant [redacted] (last name illegible)

b6
b7C

b6
b7C

There is nothing in the El Paso file which would preclude the return of these items to Mr. RICHARD CASE NAGELL.

NAGELL HAS IN THE PAST ATTEMPTED SUICIDE.

28. Photocopy of a business card for Mayor Louis R. Diaz, City of Pico Rivera
29. Photocopy for [redacted] Bail Bond Agency
30. Photocopy of business card for Hippon Educational Films
31. Photocopy of business card of the Los Angeles Police Department for a Sergeant [redacted] (last name illegible)

b6
b7C

*All items returned to
Attorney*



8/11/79



Sif

WDC

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (91-18339)

DATE: 5/27/68

FROM : SAC, EL PASO (91-1189) (C)

SUBJECT: RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas
9/20/63
BR

OO: EP

Re EP letters to the Bureau, 4/12/68 and 4/15/68.

This is to advise that on 5/20/68, AUSA [REDACTED]
[REDACTED] El Paso, Texas, advised the Honorable
U. S. District Judge D. W. SUTTLE ordered a judgment
ordering acquittal of this subject be filed in the
USDC on 4/28/68.

b6
b7C

THE SUBJECT HAS ATTEMPTED SUICIDE

②-Bureau
1-El Paso

HHB:s1
(3)

①

REC-1

EX 106

91-18339-58

14 MAY 27 1968



31
JUN 3 1968

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

PAGE THREE

GOVERNMENT IN EAST GERMANY AND TAKEN OFF OF A TRAIN AND WAS
SUBSEQUENTLY RELEASED AFTER SEVERAL MONTHS.

NAGELL HAD AN EXCELLENT COMBAT RECORD DURING
THE KOREAN CONFLICT, RECEIVING SEVERAL CITATIONS AND
A PURPLE HEART WITH TWO CLUSTERS. HE WAS WOUNDED ON ONE OR
TWO OCCASIONS IN THE HEAD, RECEIVING SHRAPNEL WOUNDS.

NAGELL HAS IN THE PAST ATTEMPTED SUICIDE.

END

TMA FBIHQ CLR

PAGE TWO

THE DEFENDANT'S MOTION FOR ACQUITTAL AND A JUDGEMENT
ACQUITTING THE DEFENDANT TO BE SUBMITTED FOR USDC, EL PASO,
BASED ON THE STRONG EVIDENCE OF NAGELL'S INSANITY.

FOR THE FURTHER INFORMATION OF THE BUREAU, ^{RICHARD}~~ROBERT~~
CASE NAGELL IS THE SOLE SURVIVOR OF A B-29 CRASH IN THE
WASHINGTON, D.C. AREA IN NOVEMBER, 1954, WHICH CAUSED
FACIAL DISFIGUREMENT AS WELL AS APPARENT BRAIN DAMAGE
AND HE WAS IN A COMATOSE CONDITION FOR SEVERAL WEEKS AFTERWARDS.
PRIOR TO THE BANK ROBBERY, NAGELL HAD BEEN IN CONTACT
WITH FBI OFFICES IN LOS ANGELES, MIAMI, NEW YORK, JACKSONVILLE,
AND LEGAT, MEXICO, REFERRING TO THE FACT THAT HE HAD BEEN
APPROACHED BY AGENTS OF A FOREIGN GOVERNMENT TO WORK FOR
THEM AND THAT HE WAS TRYING TO AVOID HAVING TO DO SO.
NAGELL HAS MADE OTHER WILD CLAIMS SUCH AS BEING AN
ASSOCIATE OF LEE HARVEY OSWALD AND HAS IN THE PAST BEEN IN
CONTACT WITH FORMER DISTRICT ATTORNEY GARRISON OF NEW
ORLEANS. IN JULY, 1968, NAGELL WAS ARRESTED BY THE COMMUNIST
END PAGE TWO

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

AUG 28 1974

TELETYPE

NR 002 EP PLAIN
12:04PM URGENT
TO: DIRECTOR (91-18339) JRC
FROM: EL PASO (91-1189) (C)

| | |
|---------------------------|--|
| Asst. Dir.: | |
| Adm. Serv. | |
| Ident. | |
| Inspection | |
| Intell. | |
| Laboratory | |
| Plan. & Eval. | |
| Rec. Mgmt. | |
| Tech. Serv. | |
| Training | |
| Off. Cong. & Public Affs. | |

But

RICHARD CASE NAGELL, AKA., STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, 9/20/63, BR, 00: EL PASO.

RE BUREAU FTS CALL, AUGUST 27, 1974.

IN RESPONSE TO REFERENCED BUREAU FTS CALL, BY
SEPARATE COVER, 31 ITEMS OF CORRESPONDENCE, NOTES, PHOTO-
GRAPHS, AND OTHER PERSONAL PAPERS OF ~~ROBERT~~ RICHARD CASE NAGELL
ARE BEING FORWARDED TO THE BUREAU, REGISTERED AIR MAIL
SPECIAL DELIVERY.

FOR THE INFORMATION OF THE BUREAU, ^{RICHARD} ROBERT CASE
NAGELL WAS CONVICTED OF BANK ROBBERY IN U.S. DISTRICT
COURT IN EL PASO ON JUNE 9, 1964, WHICH WAS REVERSED
BY 5TH CIRCUIT COURT OF APPEALS (CCA) ON JANUARY 4, 1966, WITH
INSTRUCTIONS FOR A NEW TRIAL. NEW TRIAL HELD AND NAGELL
AGAIN FOUND GUILTY ON SEPTEMBER 26, 1964 AND SENTENCED
TO SERVE 10 YEARS. ON APRIL 3, 1968, THE 5TH USCCA
AGAIN REVERSED THE CONVICTION AND DIRECTED AN ORDER GRANTING
END PAGE ONE

REC 44

ST-101

14 SEP 4 1974

140 SEP 10 1974

6-100

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

AUG 28 1974

Wm
TELETYPE

NR003 EL PLAINTEXT

1:08PM URGENT AUGUST 28, 1974 HXG

TO: DIRECTOR (91-18339)

FROM: EL PASO (91-1189) (C) ///1P///

| | |
|----------------|-------|
| Assoc. Dir. | _____ |
| Dep. A.D.-Adm. | _____ |
| Dep. A.D.-Inv. | _____ |
| Asst. Dir.: | _____ |
| Admin. | _____ |
| Comp. Syst. | _____ |
| Ext. Affairs | _____ |
| Files & Com. | _____ |
| Gen. Inv. | _____ |
| Ident. | _____ |
| Inspection | _____ |
| Intell. | _____ |
| Laboratory | _____ |
| Plan. & Eval. | _____ |
| Spec. Inv. | _____ |
| Training | _____ |
| Legal Coun. | _____ |
| Telephone Rm. | _____ |
| Director Sec'y | _____ |

0
RICHARD CASE NAGELL, AKA.; STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, SEPTEMBER 20, 1963, BR, 00: EL PASO-

RE EL PASO TELETYPE TO BUREAU, AUGUST 28, 1974.

BUREAU REQUESTED TO CHANGE THE FIRST NAME OF ROBERT TO RICHARD
IN RE TELETYPE ON THE FOLLOWING LINES: PAGE 1, PARAGRAPH 2, LINE 3;
PARAGRAPH 3, LINE 1; PAGE 2, PARAGRAPH 1, LINE 1, EL PASO
COPIES CORRECTED.

NAGELL HAS IN THE PAST ATTEMPTED SUICIDE.

END

BEH FBIHQ CLR

REC-74

EX-103

91-18339-60

7 SEP 4 1974

*conclusion made
9/3
WEP*

56 SEP 10 1974

62-WEP

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (91-18339)

DATE: 4/12/68

FROM : SAC, EL PASO (91-1139) (P*)

SUBJECT: RICHARD CASE NAGELL, aka.
State National Bank of El Paso,
El Paso, Texas,
9/20/63
BR

OO: EP

Re El Paso airtel to the Bureau 3/5/68; El Paso airtel to the Bureau, 11/27/67.

Enclosed to the Bureau via RM is a decision of reversal of U.S. Court of Appeals for the Fifth Circuit #24152, RICHARD CASE NAGELL, Appellant, versus United States of America, Appellee. Appeals from the United States District Court for the Western District of Texas, 4/3/68, before JONES and WISDOM, Circuit Judges, and SINGLETON, District Judge,

This Xerox copy was furnished by AUSA [redacted] El Paso, Texas, on 4/5/68. [redacted] advised he did not know if USDJ D. W. SUTTLE will have this defendant returned to El Paso for acquittal and a judgment acquitting the defendant as ordered by the U.S. Court of Appeals for the Fifth Circuit. This final action to be taken will be followed at El Paso, Texas, and the Bureau advised.

b6
b7C

In view of the above-referred-to reversal, the context of this ruling by the U.S. Court of Appeals for the Fifth Circuit #24152 is being set forth in view of the question of the court ruling concerning sanity in this matter:

ENCLOSURE ATTACHED
ENCLOSURE

REC-134

91-18339-57

- 3 - Bureau (Enc. 1) (RM)
- 1 - El Paso

EX-116

2 APR 16 1968

EHB/mep

APR 23 1968

APR 22 1968

100 Delivered
169 Bureau of Personnel
KLB

U.S. Savings Bonds Regularly on the Payroll Savings Plan

NINE

WISDOM, Circuit Judge: Judge Hutcheson, speaking for this Court, recently observed:

Appellate review of the sufficiency of the evidence is never an easy matter, and the difficulty is compounded when a jury in a criminal case has reached a verdict contrary to both medical testimony and visceral reaction. Brock v. United States, No. 24279, Nov. 17, 1967, at page 6. As in Brock, we are confronted with the question whether "reasonable doubt must necessarily have existed in the minds of reasonable jurors regarding appellant's sanity". Answering this question in the affirmative, we reverse the conviction of Richard C. Nagell.

As Judge Hutcheson pointed out, "Each (case) must be decided upon its own facts, with careful attention to the weight of the evidence on each side." Brock v. United States, at p. 9. This case, like Nagell himself, has had a long and stormy course. Nagell was first tried in 1964. The charge was then, and is now, entering a federally insured bank with intent to rob in violation of 18 USC, Section 2113(a). He was convicted as charged. Later, the court held a full evidentiary hearing on the defendant's motion for a new trial when Nagell revealed a number of facts previously unknown to his counsel. After denial of this motion, the defendant appealed to the Court. We reversed. Nagell v. United States, 5 Cir. 1966, 354 F.2d 441. A second trial followed. Again the jury found Nagell guilty. On this appeal, Nagell challenges the conviction on a number of grounds, one of them being the sufficiency of the evidence to support the jury's conclusion that he was sane --i.e. whether a reasonable man would have had no reasonable doubt as to his sanity. Since we conclude that reasonable doubt must have existed in the minds of reasonable jurors regarding Nagell's sanity, we do not reach the other issues presented here.

The facts of this case are extensively reviewed in this Court's earlier opinion. 354 F.2d 441. Briefly, the facts underlying the charge are as follows:

The record shows that late in the afternoon of September 20, 1963, appellant went into the State National Bank of El Paso, Texas. He asked where traveler's checks could be obtained, and upon reaching the proper cage asked the teller, a young woman, for one hundred dollars worth of checks in ten dollar denominations. The teller moved to get them, whereupon Nagell said, "Lady, this is a real gun". She immediately ran, and appellant took several steps away from the cage, fired two shots into the wall at a height of about seven feet, not aiming at the teller, and ran out of the bank. He was followed by a police officer who happened to be in the bank at the time. He was, without difficulty, arrested at a time when he was about to leave in an automobile which he had left parked near the bank. 354 F.2d at 442.

On appeal from his first conviction, Nagell asserted that his sanity was not shown beyond a reasonable doubt, but we rejected this assertion without discussion. During the first trial four doctors were called to testify and all four, though suggesting that Nagell manifested some psychological abnormalities, testified that he had the capacity to distinguish right from wrong on September 20, 1963, the date of the alleged offense. A substantial and significant segment of Nagell's medical history came to light after that trial; it was developed in the hearing on his motion for a new trial, and we related it in our earlier opinion. 354 F.2d at 447.

In the second trial this new medical history and the diagnosis related thereto was unfolded through the testimony of Dr. Edwin A. Weinstein. With the newly

discovered relevant history at hand, two psychiatrists, [redacted] who had testified at the first trial that Nagell could distinguish between right and wrong on the date in question reversed their testimony and without hesitation announced at the new trial that Nagell could not distinguish between right and wrong on that date, could not appreciate the nature of his actions, could not refrain from doing wrong. Both of these doctors are "certified" in neurology and psychiatry. Another psychiatrist, [redacted] on the basis of observation testified that in committing the act for which he was being prosecuted Nagell did not think he was doing wrong, did not know the nature and quality of the act, and could not conform his conduct to the requirements of the law. Finally, two clinical psychologists, both of whom had done psychological testing of Nagell, testified that when Nagell went into the State National Bank he did not appreciate the implications of his act and was not in control of his conduct.

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We recognize that "expert opinion as to insanity rises no higher than the reasons upon which it is based" and that "it is not binding upon the trier of the facts". Dusky v. United States, 8 Cir. 1961, 295 F.2d 743, 754; Breland v. United States, 5 Cir. 1967, 372 F.2d 629, 633; see Mims v. United States, 5 Cir. 1967, 375 F.2d 135, 143. "Description and explanation of the origin, development and manifestation of the alleged disease are the chief functions of the expert witness." Carter v. United States, D.C. Cir. 1956, 252 F.2d 608, 617; Fitts v. United States, 10 Cir. 1960, 284 F.2d 108. Here the record is replete with expert testimony regarding Nagell's mental condition: "Mentally disturbed", the particular characterization being "chronic traumatic encephalopathy" -- a disease of the brain caused by trauma. Its symptoms: paranoia suicidal preoccupations, "confabulations", tendency toward projection, impaired judgment, lack of contact with reality.

"The nature and quantum of rebuttal evidence sufficient to present a jury question is to some degree determined by the strength of the case for insanity." Brock v. United States, supra at p. 8, and authorities cited n. 10. Although in many of the cases when an appellate court has reversed a jury finding of sanity the Government had only introduced lay testimony as to the defendant's sanity, in some cases the Government had introduced psychiatric testimony on this issue. Isaac v. United States, D.C. Cir. 1960, 284 F.2d 168; United States v. Westerhausen, 7 Cir. 1960, 283 F.2d 844. We do not resolve this "battle by psychiatrist" quantitatively; that is why we reassert that "each case must be decided upon its own facts with careful attention to the weight of the evidence on each side." We acknowledge that "questions of the credibility and weight of expert opinion testimony are for the trier of facts," Mims v. United States, supra at 140, but we also recognize that "we must reverse a criminal conviction when it is 'clear to us that upon the evidence. . . a reasonable mind must necessarily have had a reasonable doubt as to. . . guilt'." Hopkins v. United States, D.C. Cir. 1960, 275 F.2d 155, 157 n. 2 and cases cited therein. "The quantum and nature of proof the Government must offer to take the case to a jury varies in different situations and to some degree depends upon the quantum and nature of proof the defendant offers." Wright v. United States, D.C. Cir. 1957, 250 F.2d 4, 7; United States v. Westerhausen, 7 Cir. 1960, 283 F.2d 844, 852; see Hopkins v. United States, D.C. Cir. 1960, 275 F.2d 155, 157; Brown v. United States, 5 Cir. 1965, 351 F.2d 473, 474. We merely conclude here, as the Tenth Circuit did in McKenzie v. United States, 10 Cir. 1959, 266 F.2d 524, 528, that

We are constrained to the view in this case, in which the evidence of trained and disinterested psychiatrists, whose duty it was to determine the mental condition of the defendant, is so overwhelming as to his insanity, that if the burden of proving sanity beyond a reasonable doubt has

any significance at all, it was not met by the meager evidence of the prosecution.

The Government in this case did introduce the testimony of two psychiatrists as to Nagell's sanity. Neither had special training in neurology, and while this is not crucial, it is an important consideration when the disorder involved is asserted to be neurological in origin. More important is the "inadequacy of the factual assumptions on which the opinion (s are) based". *Mims v. United States*, supra at 143. [redacted] while asserting that Nagell had the capacity to tell right from wrong on the date in issue, admitted that he did not have a complete medical history of Nagell, did not check the veracity of the answers related to him by Nagell during interviews (many of which answers were later shown to have been pure confabulation), did not have pertinent medical reports or psychological reports when his diagnosis was made, and did not check relevant nurses notes on Nagell's behavior. [redacted] also concluding that Nagell was sane when he entered the bank, acknowledged that he did not give any of the tests normally given before making a complete evaluation, did not have a "good diagnosis" of Nagell, and had not read the complete file of Nagell's medical history. Finally, [redacted] a defense witness, observed that he would be hard pressed to reach the diagnosis reached by the defense witness without the records that the Government's witnesses did not have in making their evaluation.

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We feel constrained to emphasize the particular and peculiar facts of this case reinforcing psychiatric testimony that Nagell was symbolizing, projecting, dramatizing, and/or confabulating when he entered the bank. Cf. *Brock v. United States*, supra. Nagell demanded travelers' checks, not cash. He asked for a specific (and relatively small) amount. He said, "this is a real gun", not "this is a stick-up". He fired two shots into the wall, not at anyone and for no apparent reason. And he was not at all evasive when he left the bank.

EP 91-1189

The peculiar facts of this case also suggest error in the charge of the court below regarding the requisite intent under the statute that Nagell was charged with violating. A specific intent to rob is required under 18 USC, Section 2113. The trial court instructed the jury that it might infer intent from Nagell's conduct in the bank. Viewing the totality of Nagell's conduct and in light of the strong evidence of his insanity at the time, we observe that it was error for the court not to instruct the jury in terms of the more restrictive specific intent required by the statute. See Clifton v. United States, 5 Cir. 1965, 341 F.2d 649, 650-51; Mann v. United States, 5 Cir. 1963, 319 F.2d 404, 409-10.

Considering the facts of this case and the evidence in the record, we conclude that the evidence introduced by the Government is not sufficient to sustain the conviction. While in some of the cases in which the appellate courts have reversed convictions on this ground the cases were remanded to allow the Government an opportunity to strengthen its position, we feel that "no good purpose could be served in ordering a new trial" in this case. United States v. Westerhausen, 7 Cir. 1960, 283 F.2d 844; Argent v. United States, 5 Cir. 1963, 325 F.2d 162; see Hartford v. United States 9 Cir. 1966, 362 F.2d 63; McKenzie v. United States, 10 Cir. 1959, 266 F.2d 524. The judgment of the conviction is reversed and the case is remanded to the district court with directions to vacate that judgment and to enter an order granting the defendant's motion for acquittal and a judgment acquitting the defendant.

THE SUBJECT HAS ATTEMPTED SUICIDE.

Keep Attached to Exhibit

EP # 91-1189-1A(28)

91-18339-57

IN THE
United States Court of Appeals
FOR THE FIFTH CIRCUIT

No. 24152

RICHARD CASE NAGELL,
Appellant,
versus

UNITED STATES OF AMERICA,
Appellee.

*Appeals from the United States District Court for the
Western District of Texas.*

(April 3, 1968.)

Before JONES and WISDOM, Circuit Judges, and
SINGLETON, District Judge.

WISDOM, Circuit Judge: Judge Hutcheson, speaking for this Court, recently observed:

Appellate review of the sufficiency of the evidence is never an easy matter, and the difficulty is compounded when a jury in a criminal case has reached a verdict contrary to both medical testimony and visceral reaction. *Brock v. United States*, No. 24279, Nov. 17, 1967, at page 6.

As in *Brock*, we are here confronted with the question whether "reasonable doubt must necessarily have existed in the minds of reasonable jurors regarding appellant's sanity". Answering this question in the affirmative, we reverse the conviction of Richard C. Nagell.

As Judge Hutcheson pointed out, "Each [case] must be decided upon its own facts, with careful attention to the weight of the evidence on each side." *Brock v. United States*, at p. 9. This case, like Nagell himself, has had a long and stormy course. Nagell was first tried in 1964. The charge was then, and is now, entering a federally insured bank with intent to rob in violation of 18 U.S.C. § 2113(a). He was convicted as charged. Later, the court held a full evidentiary hearing on the defendant's motion for a new trial when Nagell revealed a number of facts previously unknown to his counsel. After denial of this motion, the defendant appealed to this Court. We reversed. *Nagell v. United States*, 5 Cir. 1966, 354 F.2d 441. A second trial followed. Again the jury found Nagell guilty. On this appeal, Nagell challenges the conviction on a number of grounds, one of them being the sufficiency of the evidence to support the jury's conclusion that he was sane—i.e. whether a reasonable man would have had no reasonable doubt as to his sanity. Since we conclude that reasonable doubt must have existed in the minds of reasonable jurors regarding Nagell's sanity, we do not reach the other issues presented here.

The facts of this case are extensively reviewed in this Court's earlier opinion.¹ 354 F.2d 441. Briefly, the facts underlying the charge are as follows:

The record shows that late in the afternoon of September 20, 1963, appellant went into the State National Bank of El Paso, Texas. He asked where travelers' checks could be obtained, and upon reaching the proper cage asked the teller, a young woman, for one hundred dollars worth of checks in ten dollar denominations. The teller moved to get them, whereupon Nagell said, "Lady, this is a real gun". She immediately ran, and appellant took several steps away from the cage, fired

¹ On the first appeal this Court summarized the highlights of Nagell's background: "At the time of the trial, Nagell was thirty-three years old. He was born in Greenwich, New York. His father died when he was two years old. Under circumstances not explained in the record, he was separated from his mother when he was four. He lived in various foster homes until he was eleven, and in an orphanage until he was eighteen. He then enlisted in the Army, 1943. He became a paratrooper, but in 1951 went to Korea with the 24th Infantry as a second lieutenant. He served a year in Korea, was rotated home, but immediately went back at his own request. On three separate occasions he was wounded in action. In 1951, he was a passenger in a military airplane enroute from Los Angeles to Washington. The plane crashed while attempting a landing at Friendship Airport, killing all occupants except Nagell. He sustained severe head injuries, including organic brain damage, although this damage, as will be seen, was unknown to the trial judge or defense attorneys until after the trial now under review. He was hospitalized in Walter Reed Hospital, was later returned to duty through some machinations of his own, and resigned from the service under honorable conditions. He drew 64% service connected disability compensation, but not for a mental condition. In 1958, at the American Embassy in Tokyo, he was married to a Japanese subject. They had two children, but the marriage had gone on the rocks before September, 1963. He later worked for the State of California, but lost that job. In August, 1962, he shot himself through the left chest. He originally claimed this was done by an assailant whom he refused to name; it later came out that the shot was self-inflicted." 351 F.2d 441 at 443.

two shots into the wall at a height of about seven feet, not aiming at the teller, and ran out of the bank. He was followed by a police officer who happened to be in the bank at the time. He was, without difficulty, arrested at a time when he was about to leave in an automobile which he had left parked near the bank. 354 F.2d at 442.

On appeal from his first conviction, Nagell asserted that his sanity was not shown beyond a reasonable doubt, but we rejected this assertion without discussion. During the first trial four doctors were called to testify and all four, though suggesting that Nagell manifested some psychological abnormalities, testified that he had the capacity to distinguish right from wrong on September 20, 1963, the date of the alleged offense. A substantial and significant segment of Nagell's medical history came to light after that trial; it was developed in the hearing on his motion for a new trial, and we related it in our earlier opinion. 354 F.2d at 447.

In the second trial this new medical history and the diagnosis related thereto was unfolded through the testimony of Dr. Edwin A. Weinstein.² With the new-

² Dr. Weinstein is a medical doctor specializing in neurology and psychiatry. He has done extensive research on the effect of brain injuries on human behavior; Dr. Weinstein studies patients with brain injuries brought to Walter Reed Army Hospital and follows their subsequent activities to correlate the behavior before the injury, the type of brain injury sustained, and the symptoms later manifested. He has written two books and ninety articles related to this field and has used Richard Nagell as an example in his writings. Reference to Dr. Weinstein's testimony in the hearing on Nagell's motion for a new trial following his first convictions can be found in our earlier opinion, 354 F.2d at 447.

ly discovered relevant history at hand, two psychiatrists, Drs. Bennett and Hernandez, who had testified at the first trial that Nagell *could* distinguish between right and wrong on the date in question *reversed their testimony* and without hesitation announced at the new trial that Nagell could not distinguish between right and wrong on that date, could not appreciate the nature of his actions, could not refrain from doing wrong. Both of these doctors are "certified" in neurology and psychiatry. Another psychiatrist, Dr. Alderete, on the basis of observation, testing, and a review of the medical history, testified that in committing the act for which he was being prosecuted Nagell did not think he was doing wrong, did not know the nature and quality of the act, and could not conform his conduct to the requirements of the law. Finally, two clinical psychologists, both of whom had done psychological testing of Nagell, testified that when Nagell went into the State National Bank he did not appreciate the implications of his act and was not in control of his conduct.

We recognize that "expert opinion as to insanity rises no higher than the reasons upon which it is based" and that "it is not binding upon the trier of the facts". *Dusky v. United States*, 8 Cir. 1961, 295 F.2d 743, 754; *Breland v. United States*, 5 Cir. 1967, 372 F.2d 629, 633; see *Mims v. United States*, 5 Cir. 1967, 375 F.2d 135, 143. "Description and explanation of the origin, development and manifestation of the alleged disease are the chief functions of the expert witness." *Carter v. United States*, D.C. Cir. 1956, 252

F.2d 608, 617; *Fitts v. United States*, 10 Cir. 1960, 284 F.2d 108, . Here the record is replete with expert testimony regarding Nagell's mental condition: "Mentally disturbed", the particular characterization being "chronic traumatic encephalopathy"—a disease of the brain caused by trauma. Its symptoms: paranoia suicidal preoccupations, "confabulations", tendency toward projection, impaired judgment, lack of contact with reality.

"The nature and quantum of rebuttal evidence sufficient to present a jury question is to some degree determined by the strength of the case for insanity." *Brock v. United States*, *supra* at p. 8, and authorities cited n. 10. Although in many of the cases when an appellate court has reversed a jury finding of sanity the Government had only introduced lay testimony as to the defendant's sanity, in some cases the Government had introduced psychiatric testimony on this issue. *Isaac v. United States*, D.C. Cir. 1960, 284 F.2d 168; *United States v. Westerhausen*, 7 Cir. 1960, 283 F.2d 844. We do not resolve this "battle by psychiatrist" quantitatively; that is why we reassert that "each case must be decided upon its own facts with careful attention to the weight of the evidence on each side." We acknowledge that "questions of the *credibility* and *weight* of expert opinion testimony are for the trier of facts," *Mims v. United States*, *supra* at 140, but we also recognize that "we must reverse a criminal conviction when it is 'clear to us that upon the evidence . . . a reasonable mind must necessarily have had a reasonable doubt as to

... guilt'." *Hopkins v. United States*, D.C. Cir. 1960, 275 F.2d 155, 157 n. 2 and cases cited therein. "The quantum and nature of proof the Government must offer to take the case to a jury varies in different situations and to some degree depends upon the quantum and nature of proof the defendant offers." *Wright v. United States*, D.C. Cir. 1957, 250 F.2d 4, 7; *United States v. Westerhausen*, 7 Cir. 1960, 283 F.2d 844, 852; see *Hopkins v. United States*, D.C. Cir. 1960, 275 F.2d 155, 157; *Brown v. United States*, 5 Cir. 1965, 351 F.2d 473, 474. We merely conclude here, as the Tenth Circuit did in *McKenzie v. United States*, 10 Cir. 1959, 266 F.2d 524, 528, that

We are constrained to the view in this case, in which the evidence of trained and disinterested psychiatrists, whose duty it was to determine the mental condition of the defendant, is so overwhelming as to his insanity, that if the burden of proving sanity beyond a reasonable doubt has any significance at all, it was not met by the meager evidence of the prosecution.

The Government in this case did introduce the testimony of two psychiatrists as to Nagell's sanity. Neither had special training in neurology, and while this is not crucial, it is an important consideration when the disorder involved is asserted to be neurological in origin. More important is the "inadequacy of the factual assumptions on which the opinion[s] are] based". *Mims v. United States*, *supra* at 143. Dr. Schwartz, while asserting that Nagell had the ca-

capacity to tell right from wrong on the date in issue, admitted that he did not have a complete medical history of Nagell, did not check the veracity of the answers related to him by Nagell during interviews (many of which answers were later shown to have been pure confabulation), did not have pertinent medical reports or psychological reports when his diagnosis was made, and did not check relevant nurses notes on Nagell's behavior. Dr. Baker, also concluding that Nagell was sane when he entered the bank, acknowledged that he did not give any of the tests normally given before making a complete evaluation, did not have a "good diagnosis" of Nagell, and had not read the complete file of Nagell's medical history. Finally, Dr. Alderete, a defense witness, observed that he would be hard pressed to reach the diagnosis reached by the defense witness without the records that the Government's witnesses *did not have* in making their evaluation.

We feel constrained to emphasize the particular and peculiar facts of this case reinforcing psychiatric testimony that Nagell was symbolizing, projecting, dramatizing, and/or confabulating when he entered the bank. Cf. *Brock v. United States*, *supra*. Nagell demanded travelers' checks, not cash. He asked for a specific (and relatively small) amount. He said, "this is a real gun", not "this is a stick-up". He fired two shots into the wall, not at anyone and for no apparent reason. And he was not at all evasive when he left the bank

The peculiar facts of this case also suggest error in the charge of the court below regarding the requisite intent under the statute that Nagell was charged with violating. A *specific intent* to rob is required under 18 U.S.C. § 2113.³ The trial court instructed the jury that it might infer intent from Nagell's conduct in the bank.⁴ Viewing the totality of Nagell's conduct, and in light of the strong evidence of his insanity at the time, we observe that it was error for the court not to instruct the jury in terms of the more restrictive specific intent required by the statute. See *Clifton v. United States*, 5 Cir. 1965, 341 F.2d 649, 650-51; *Mann v. United States*, 5 Cir. 1963, 319 F.2d 404, 409-10.⁵

Considering the facts of this case and the evidence in the record, we conclude that the evidence intro-

³ See *Prince v. United States*, 1957, 352 U.S. 322, 77 S.Ct. 403, 1 L.Ed.2d 370; *Womack v. United States*, D.C. Cir. 1964, 336 F.2d 959; cf. *Morisette v. United States*, 1952, 342 U.S. 246, 72 S.Ct. 240, 96 L.Ed. 288; *Heideman v. United States*, D.C.Cir. 1958, 259 F.2d 943.

⁴ The trial judge instructed:

As a general rule, it is reasonable to infer that a person ordinarily intends all the natural and probable consequences of acts knowingly done or knowingly omitted. So, unless the evidence in the case leads the jury to a different or contrary conclusion, the jury may draw the inference and find that the defendant intended all the natural and probable consequences which one . . . should reasonably have expected to result.

⁵ In *Helms v. United States*, 5 Cir. 1964, 340 F.2d 15, we held that a charge similar to the one given in this case was not "plain error". We observed that "in the Mann case the purely mental state was the crucial issue while here the contest centers about objective conduct". 340 F.2d at 19. In the present case we cannot divorce the concept of "objective conduct" from that of "mental state", since the insanity of Nagell has from the start been clearly in issue. We thus cannot legitimate the inference of specific intent—a mental state—from the at least ambiguous conduct of Nagell in the bank.

duced by the Government is not sufficient to sustain the conviction. While in some of the cases in which the appellate courts have reversed convictions on this ground the cases were remanded to allow the Government an opportunity to strengthen its position,⁶ we feel that "no good purpose could be served in ordering a new trial" in this case. *United States v. Westerhausen*, 7 Cir. 1960, 283 F.2d 844; *Argent v. United States*, 5 Cir. 1963, 325 F.2d 162; see *Hartford v. United States*, 9 Cir. 1966, 362 F.2d 63; *McKenzie v. United States*, 10 Cir. 1959, 266 F.2d 524. The judgment of the conviction is reversed and the case is remanded to the district court with directions to vacate that judgment and to enter an order granting the defendant's motion for acquittal and a judgment acquitting the defendant.

⁶ *Brock v. United States*, 5 Cir. No. 24279, Nov. 17, 1967, *Fielding v. United States*, D.C. Cir. 1957, 251 F.2d 878; *Wright v. United States*, D.C. Cir. 1957, 250 F.2d 4.

F B I

Date: 11/27/67

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P*)

SUBJECT: RICHARD CASE NAGELL, aka.
State National Bank of El Paso,
El Paso, Texas,
9/20/63
BR

OO: EL PASO

Re report of SA HAROLD H. BOYCE, El Paso, dated
9/28/66.

Enclosed to the Bureau via Registered Mail are
the following briefs, which were furnished by AUSA [redacted]
[redacted] El Paso, Texas:

1. Appellant's Opening Brief filed by Attorneys [redacted] and [redacted] for the appellant RICHARD CASE NAGELL, U.S. Court of Appeals for the Fifth Circuit #24152.
2. Brief of Appellee, U.S. Court of Appeals for the Fifth Circuit #24152.

3 - Bureau (Enc. 2) (RM)
1 - El Paso

HHB/mep
(4)

C. C. Bishop

ENCLOSURE

"ENCL. BEHIND FILE"

EX 101

8 NOV 29 1967

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

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DEC 11 1967

EP 91-1189

As reflected in referenced El Paso report, this subject was tried by jury on bank robbery charges in U.S. District Court, El Paso, Texas, and a guilty verdict was returned on 9/26/66. On 9/27/66, this subject was sentenced to serve ten years under count one of a bank robbery indictment with count two being withdrawn under provisions of Section 4208 (a) (II), Title 18, USC.

AUSA [] pointed out that after the conviction and sentencing of this subject his attorneys under forma pauperis filed a motion of appeal in U.S. Court of Appeals for the Fifth Circuit. [] advised that on the last notice of cases to be heard by the Fifth Circuit, this case was scheduled for hearing in the U.S. Court of Appeals for the Fifth Circuit convening at Houston, Texas, on 12/1/67.

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The following is a summary of the above-referred-to Appellant's Opening Brief and Brief of Appellee. The Appellant's Opening Brief listed the following Specifications of Error:

FIRST SPECIFICATION OF ERROR: The trial court erred in his instructions to the jury in refusing, over defendant's objection, to instruct the jury on the defense of mental capacity by defendant to formulate the necessary specific intent to commit the crime charged.

SECOND SPECIFICATION OF ERROR: The trial court erred in its instructions urging the jury to arrive at a verdict by virtue of the so-called "Allen Charge". The verdict was a product of judicial coercion.

EP 91-1189

THIRD SPECIFICATION OF ERROR: The evidence was insufficient as a matter of law to exclude beyond a reasonable doubt the hypothesis of insanity, and the trial court erred in denying appellant's timely motions for judgment of acquittal made during and after the trial.

FOURTH SPECIFICATION OF ERROR: The Court erred in refusing to admit into evidence, the government's motion for a psychiatric examination (defendant's exhibit L) which was admissible to rebut and impeach the government's contention at the trial, that the defendant was merely suffering from a "jail psychosis" shortly after his arrest, and therefore, that he was not suffering from any serious mental disease at the time of the offense.

FIFTH SPECIFICATION OF ERROR: The trial court erred in not charging the jury as requested by the defendant when the jury inquired (a) if under the court's charge mental illness was grounds for the defendant to be pronounced not guilty, and (2) requested an explanation in more detail and to give example of "doubt" and "reasonable doubt".

The government filed a brief of appellee in answer to the above appellant's brief.

POINT ONE

The trial court did not err in his instructions to the jury. The Court made it quite clear that appellant was quite innocent until the government carried its order proving him guilty beyond a reasonable doubt in that an essential element of such proof was proof of specific intent to commit the crime charged in the indictment.

EP 91-1189

POINT TWO

The trial Court's supplementary charge to the jury was not error and did not constitute an unlawful coercion of the verdict.

Avoidance of a hung jury is deemed desirable in the administration of justice if accomplished through fair and legitimate means. The trial Court gave an "Allen" charge which is acceptable in this circuit, pointing out that in all respect this charge is most favorable to the appellant and carefully adheres to the admonitions enumerated in *Estes v. U.S.*, *supra* and *Thaggard v. U.S.*, *supra*.

POINT THREE

The evidence was sufficient to support the jury's finding that appellant was legally sane at the time of the offense.

At the trial, the appellant presented the testimony of four psychiatrists and two psychologists in an attempt to establish that on the date of the offense he was not criminally responsible for his actions. The government offered the testimony of lay witnesses concerning the facts of the offense and the appellant's behavior on the day in question to establish his legal sanity. The jury apparently accepted the appellee's evidence and found the appellant guilty. There is no question that the appellant had a history of mental problems; however, this Court has observed that an accused may have a mental disorder or deficiency and in some cases will be mentally competent to be held legally responsible for his crimes. The jury's finding that appellant was legally sane should be affirmed.

EP 91-1189

POINT FOUR

The trial Court correctly refused to admit the government's motion for psychiatric examination into evidence.

None of the cases cited in appellant's brief are relevant to the present issue. None involved an attempt by the defense to introduce in evidence a Government motion for psychiatric examination. The trial Court properly refused to admit the motion into evidence.

POINT FIVE

The trial Court correctly answered the jury's question as to whether or not mental illness would be grounds for acquittal of the appellant, and the trial Court acted properly in refusing to give examples of "doubt" and "reasonable doubt."

The Court in his charge gave a correct and complete definition of reasonable doubt; therefore, it was proper that he not attempt to explain further or give examples of "doubt" or "reasonable doubt". It has heretofore been recognized that attempts to explain the term "reasonable doubt" usually do not result in making it any clearer in the minds of the jury.

CONCLUSION

The appellant has now been tried twice and convicted twice on the same charge. His first conviction was reversed by this Court and remanded for a new trial, based

EP 91-1189

on "newly discovered evidence". NAGELL v. U.S., 354 F. 2d 441 (5th Cir. 1966). At the second trial, all the evidence available to both sides was presented, and the jury again convicted. Two different juries have now found appellant guilty, and two different trial courts have imposed identical sentences. There is no more evidence available to either side. The judgment should be affirmed. However, if this Court should see fit to reverse the conviction, appellee joins appellant in suggesting that no good purpose could be served by another trial, and that this Court should dispose of the case once and for all.

Respectfully submitted,

ERNEST MORGAN
United States Attorney

[REDACTED]
Assistant U.S. Attorney

[REDACTED]
Assistant U.S. Attorney

THE SUBJECT HAS ATTEMPTED SUICIDE.

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b7C

F B I

Date: 3/5/68

Transmit the following in _____
(Type in plain text or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (91-18339)
FROM: SAC, EL PASO (91-1189) (P*)
SUBJECT: RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas,
9/20/63
BR

OO: EP

Re Bureau O-1 dated 2/29/68;
EP airtel to Bureau, 11/27/67.

AUSA [redacted] advised SA HAROLD W.
BOYCE on 3/4/68, instant case is still pending the
decision of the U. S. Court of Appeals, Fifth Circuit.

The Bureau will be advised as soon as the
decision is furnished to the AUSA at El Paso.

THE SUBJECT HAS ATTEMPTED SUICIDE.

3-Bureau
1-El Paso

HNB:s1
(4)

EX-102

REC-4

MAR 7 1968

SIX

Approved: [Signature] Sent _____ M Per _____
Special Agent in Charge

b6
b7c

PAROLE REPORT

FEDERAL BUREAU OF INVESTIGATION

| | | |
|--|--|------------------------|
| Reporting Office EL PASO | Office of Origin EL PASO | Date 9/28/66 |
| Name of Convict with Aliases: RICHARD CASE NAGELL, aka., Joe Kramer Joe Cramer Robert C. Nolan | Report Made By HAROLD H. BOYCE | Typed By CLB |
| | Violation: BANK ROBBERY | |

Outline of Offense: On 9/20/63 convict entered the State National Bank, El Paso, Texas, thrust a .45 caliber Colt blue steel short barrel revolver through the window, pointed it at a woman teller and exclaimed, "This is a real gun, lady". When teller fled from window to take cover, subject fired two shots into the wall above the head of the teller, fled from the bank, where he entered a 1957 Ford two door Fairlane 500, and started to flee. On encountering [redacted] patrolman, subjects surrendered and taken into custody. U.S. 5th Circuit Court of Appeals reversed prior judgment 1/4/66 with instructions new trial be granted. b7D

Date and place of indictment;

or information filed: **San Antonio, Texas, 1/10/64**

Code and section under which charged: **Section 2113, Title 18, U.S. Code (retrial)**

Section under which sentenced: **Section 4208(a)(II), Title 18, U.S. Code.**

Date and nature of plea: **9/19/66, not guilty (retrial)**

Date and place of conviction: **9/26/66, U.S. District Court, El Paso, Texas**

Date and duration of sentence: **9/27/66, ten years.**

Fines: **None**

Aggravating or Mitigating circumstances: **This convict has an outstanding war record in connection with the Korean conflict and was wounded on several occasions. He was the lone survivor of a military aircraft crash in 1954, at which time he suffered severe head injuries. He has had psychiatric treatment in numerous Veterans Administration Hospitals.**

(Cont. on Page 2)

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|---|-------------------------|------------------------------|-----------|
| Approved <i>[Signature]</i> | Special Agent in Charge | Do Not Write in Spaces Below | |
| Copies Made: 3 - Bureau Dissemination at SOG Bureau of Prisons Date Fwd.: 10/11/66 By: <i>[Signature]</i> 1 - | | 91-18339- | 54 |
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ENCLOSURE

EP 91-1189

AGGRAVATING OR MITIGATING CIRCUMSTANCES (CONT):

This offense is aggravated since he fired two shots in a heavily crowded bank at the time of the attempted holdup. He refused to cooperate with five separately appointed court attorneys, refused to cooperate with various psychiatrists, and has indicated a desire to commit suicide.

Subsequent to subject's prior conviction and sentence on 6/9/64, he attempted suicide by taking sleeping or tranquilizer pills in the El Paso County Jail.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 AUSA, El Paso

Report of: HAROLD H. BOYCE
Date: 9/28/66

Office: EL PASO

Field Office File #: 91-1189

Bureau File #: 91-18339

Title: RICHARD CASE NAGELL
State National Bank of
El Paso, El Paso, Texas,
September 20, 1963

Character: BANK ROBBERY

Synopsis:

See file 91-1189-1000

U.S. Fifth Circuit Court of Appeals on 1/4/66 reversed the previous conviction of this subject on 6/9/64 with instructions new trial be granted. Trial by jury commenced USDC, El Paso, 9/19/66 and jury started deliberation 9/22/66 and returned guilty verdict 9/26/66. On 9/27/66 subject sentenced to serve ten years under Count 1 of bank robbery indictment with Count 2 being withdrawn under provisions of Section 4208(a)(II), Title 18, USC. SUBJECT HAS ATTEMPTED SUICIDE. ONE CONVICTION.

- C -

Details: AT EL PASO, TEXAS

On September 19, 1966, Assistant United States Attorney [redacted] advised that inasmuch as the United States Fifth Circuit Court of Appeals on January 4, 1966, had reversed the judgment and conviction of this subject with instructions that a new trial be granted, retrial in this case was commenced on September 19, 1966, before the Honorable United States District Judge D. W. SUTTLE.

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EP 91-1189

[redacted] advised the Government was represented in this case by Assistant United States Attorney [redacted] and himself. He advised the jury hearing this case consisted of six men and six women, and the Government elected to try this case under Count 1 of the indictment with Count 2 being withdrawn. He advised that trial of this case was completed and turned over to the jury for deliberation on September 22, 1966.

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On September 27, 1966, [redacted] further advised that a verdict of guilty was returned at 3:05 p.m. on September 26, 1966, and on September 27, 1966, RICHARD CASE NAGELL was sentenced to ten years under Title 18, United States Code, Section 4208(a)(II). He advised subject's attorneys, [redacted] and [redacted] were granted ten days by the United States District Court to file motions.

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[redacted] pointed out that under the provisions of Title 18, United States Code, Section 4208(a)(II), the subject can be released on parole at any time it is deemed advisable.

EP 91-1189

ADMINISTRATIVE

As reflected in referenced El Paso airtels to Bureau, it is noted that on 1/4/66 the United States Fifth Circuit Court of Appeals reversed the conviction of this subject on a sentence of ten years on 6/9/64 with instructions that a new trial be granted.

Inasmuch as the above conviction was possibly deleted from the statistical accomplishments of the El Paso Office, one conviction in instant retrial is being scored by the El Paso Office.

FEDERAL BUREAU OF INVESTIGATION

| | | | |
|--|-----------------------------|-----------------------------------|------------------------------------|
| REPORTING OFFICE EL PASO | OFFICE OF ORIGIN EL PASO | DATE 9/28/66 | INVESTIGATIVE PERIOD 9/19-28/66 |
| TITLE OF CASE RICHARD CASE NAGELL, aka.; State National Bank of El Paso, El Paso, Texas, 9/20/63 | | REPORT MADE BY HAROLD H. BOYCE | TYPED BY CLB |
| | | CHARACTER OF CASE BR | |

REFERENCES

Report of SA THOMAS B. WHITE, Jr., dated 4/15/64
at El Paso.

El Paso airtel to Bureau 8/4/66.

El Paso airtel to Bureau 4/8/66

El Paso airtel to Bureau 1/11/66.

= C =

ENCLOSURESTO THE BUREAU

One (1) disposition sheet re subject NAGELL.
Three (3) copies parole report re subject NAGELL.

DISPOSITION SHEET DETACHED
AND HANDLED SEPARATELY.

Case has been Pending over one year ☐ Yes ☒ No; Pending prosecution over six months ☒ Yes ☐ No

APPROVED

SPECIAL AGENT
IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

1 Bureau (91-18339) (Enc. 4)

1 AUSA, El Paso

1 El Paso (91-1189)

91-11337-54
12 SEP 29 1966

REC-15

Dissemination Record of Attached Report

Notations

| | | | | |
|---------------|---------------|--|--|--|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | 54 OCT 1 1966 | | | |
| By | | | | |

SIX
STAT. SECT.

DIRECTOR, FBI

10/17/75

SAC, EL PASO

ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY
11/22/63
DALLAS, TEXAS
MISCELLANEOUS INFORMATION CONCERNING
Bufile 62-109060
EP file 89-52 (RUC)

12
RICHARD CASE MAGELL, aka
STATE NATIONAL BANK OF EL PASO
EL PASO, TEXAS
9/20/63
BANK ROBBERY
OO: EP
Bufile 91-18339
EP file 91-1189 (C)

Enclosed is a self-explanatory letter to ASAC
[redacted] from [redacted] reporter for the
El Paso Herald Post. Also enclosed is an article by
Reporter [redacted] concerning allegations that
MAGELL might have information concerning the KENNEDY
assassination.

This matter is being submitted to the Bureau
for Bureau information in that it does not appear there
is anything that can be done in El Paso on this matter.
Bureau is in complete receipt of all background information
regarding RICHARD CASE MAGELL.

- ① - Bureau (2 62-109060) (Enc. 2)
(2 91-18339)
2 - El Paso (1 89-52)
(1 91-1189)

TDW/mec
(6)

91-18339-
NOT RECORDED
48 NOV 6 1975

ORIGINAL FILED IN

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F B I

Date: 1/11/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIR MAIL
(Priority)

TO: DIRECTOR, FBI (91-18339)
FROM: SAC, EL PASO (91-1189) (P*)
SUBJECT: RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EL PASO

Re Bureau airtel 1/7/66.

Pursuant to Bureau instructions, the following
is a summary of the points listed in the appeal and the
defense answer thereto:

For the information of the Bureau, on 1/11/66
AUSA [] furnished this office with a xerox
copy of the opinion for the Fifth Circuit Court of Appeals
dated 1/4/66, rendered by the Honorable Chief Judge TUTTLE,
Circuit Judge COLEMAN, and District Judge HUNTER, reversing
the conviction of this subject with instructions that a new
trial be granted.

Enclosed herewith for the Bureau, the El Paso
Office is returning the appellant's briefs and the Government's
answers which were forwarded to the El Paso Office in referenced
Bureau airtel. Also included is a xerox copy of the above
referred to ruling by the U.S. Fifth Circuit Court of Appeals
which will also be included in the following summary:

ENCLOSURE

- EX-101 REC-4 91-18339-46
③ - Bureau (RAM) (Encl. 7)
1 - Houston (Info)
1 - Kansas City (Info)
1 - El Paso

HHB/bam (6)

Approved: _____

"ENCL. BEHOLD FILE"

Sent _____

M

Per _____

50 JAN 19 1966

Special Agent in Charge

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b7C

APPELLANT'S OPENING BRIEF
CASE NUMBER 21620

Appellant's trial commenced on May 4, 1964 in USDC, El Paso, Texas, and on 5/6/64 the jury returned the verdict Guilty to both counts of the indictment in violation of 18, U.S.C.A. Sec. 2113 (a). The appellant elected to serve his sentence and is presently in the Federal Penitentiary at Ft. Leavenworth, Kansas pending this appeal. This appeal was based on the following specifications of error:

Point One

The evidence is insufficient as a matter of law to sustain the conviction and the trial court erred in denying and overruling appellant's timely motions for judgement of acquittal.

Point Two

The evidence is insufficient as a matter of law to sustain the conviction since it does not exclude beyond a reasonable doubt the hypothesis of insanity by appellant; and the trial court erred in overruling appellant's timely motion for judgement of acquittal and in refusing appellant's motion for a judgement of acquittal notwithstanding the jury's verdict.

Point Three

The trial court abused its discretion and erred in denying appellant's motion for a continuance because it deprived appellant of effective assistance of counsel.

Point Four

The trial court erred in denying and overruling appellant's motions for mistrial when the prosecution by improper examination and inadmissible testimony of appellant's own medical expert witnesses, and by argument, made it known to the jury that in order to protect society from

EP 91-1189

appellant, and appellant from himself, in the future, that appellant should be convicted regardless of the evidence showing appellant's insanity, or the legal defense of insanity.

Point Five

The trial court abused its discretion and erred in denying and overruling appellant's motion for a new trial which was necessarily required in the interest of justice and because the newly discovered evidence would have no doubt resulted in an acquittal.

Point Six

Appellant's constitutional rights to a fair and impartial trial were denied to him because his appointed attorneys were lulled and mislead into relying upon the government's erroneous representations that all evidence bearing on defendant's mental condition would be made available to them, when in fact pertinent and vital medical evidence was not made available to them.

Point Seven

It was fundamental error and a denial of appellant's constitutional rights to a fair and impartial trial and due process of law for the trial court to charge the jury on the defense of insanity in the limited terms of the second Davis case without further reference to modern alternative tests for insanity which would have authorized the jury to consider other factors bearing on the nature of appellant's mental disorder and its relationship to the acts charged.

Point One Restated

The evidence is insufficient as a matter of law to sustain the conviction and the trial court erred in

EP 91-1189

denying and overruling appellant's timely motions for judgement of acquittal.

The brief filed by the appellee (USA) pointed out in substance:

Counterpoint One

The court correctly overruled appellant's motions for judgment of acquittal and the evidence is sufficient to sustain the verdict of guilty.

Counterpoint Two

The court properly overruled appellant's motions for judgment of acquittal in that the government produced sufficient evidence to sustain its burden on the issue of insanity.

Counterpoint Three

The trial court properly overruled appellant's motion for continuance.

Counterpoint Four

The trial court properly overruled appellant's motions for mistrial in that prosecution's cross examination of appellant's medical expert witnesses was proper.

Counterpoint Five

The trial court properly overruled appellant's motion for a new trial in that the granting of a new trial would have thwarted the interests of justice and no newly discovered evidence was presented.

Counterpoint Six

The court properly denied appellant's motion for a new trial in the interests of justice because the Government did not suppress evidence or mislead the defense, and the absence of witnesses and evidence at the trial was due to appellant's concealment thereof.

Counterpoint Seven

The trial court gave the proper instructions to the jury on the issue of insanity and properly refused appellant's requested instructions on said issue.

APPELLANT'S FIRST SUPPLEMENTAL BRIEF

In the appellant's first supplemental brief it was pointed out that in point three the trial court abused its discretion and erred in denying appellant's motion for a continuance because it deprived appellant of effective assistance of counsel. In point five the brief pointed out that the trial court abused its discretion and erred in denying and overruling appellant's motion for a new trial which was necessarily required in the interest of justice and because the newly discovered evidence would have no doubt resulted in an acquittal.

This brief also brought out the following concerning point six of appellant's opening brief:

Appellant's rights to a fair trial were denied because his appointed attorneys were lulled and mislead into relying upon the government's erroneous representations that all evidence bearing on defendant's mental condition would be made available to them, when in fact pertinent and vital medical evidence was not made available to them.

In this first supplemental brief, the appellant

pointed out in conclusion it can safely be said that injustice does not necessarily result in a criminal case where the prosecution, for reasons other than willfulness, fails to disclose evidence which is doubtfully material to the defense; however, justice is impossible or denied in a criminal case involving the issue of insanity where the prosecution for any reason, whether in good or bad faith, fails to disclose not only to the defense counsel, all evidence having a bearing on the issue of criminal responsibility of the accused.

APPELLANT'S SECOND SUPPLEMENTAL BRIEF

Appellant's second supplemental brief filed 8/30/65, pointed out in substance that to sustain points three and five of the appellant's opening brief, the defense at the time of trial belabored under the opinion that their client suffered a functional mental disorder due to evidence available at the time, concerning appellant's traumatic head injury. It pointed out that a motion for a new trial hearing was made. There was positive evidence that there was casual connection between the brain injury and the abnormal behavior, which under periods of stress, resulted in absolute psychotic behavior which prevented the defendant from knowing the difference from right and wrong. This new evidence at the time of the motion for new trial showed that the abnormal behavior was caused by severe organic brain injury rather than the result of a functional disorder of the mind alone and that this should be classified as newly discovered evidence.

This brief pointed out:

If this court decides that the matter complained of herein was not properly brought to the attention of the trial court (and appellant insists that it was) then appellant invokes 18 U.S.C.A, Federal Rules of Criminal Procedure, 52 b,

EP 91-1189

and says that the trial court committed plain error which affected appellant's substantial rights to a fair trial, which warrants a reversal of this conviction.

The Government filed a supplemental brief for appellee in November, 1965 which in substance pointed out the Government could sympathize with the plight of the appellant if the later disclosed information had actually been discovered by counsel from independent sources, but in view of the record, which shows that these disclosures came immediately after the trial from the appellant himself, the Government feels the exception which appellant seeks to establish is not valid and would indeed be a dangerous precedent. The Government pointed out the mere fact that appellant's attempted bank robbery was aborted is no evidence of insanity, and it pointed out that the testimony showed the appellant intended to rob the bank although it was ill conceived and poorly carried out. Appellant's reasoning power is further illustrated by the fact that at the trial he attempted in his testimony, to portray himself as a lost wanderer in the bank, displaying a gun to the teller as though it was only a showpiece, firing two shots into the wall without reason, and calmly walking out of the bank, all of which was contrary to other evidence in the case.

The appellant filed in action to the Government's briefs, a lengthy reply ending with the conclusion:

Appellant submits that the record in this cause and all the specifications of error, when considered singularly and collectively, and presented by him in his opening and this closing brief, not only show error, but injury to his substantial rights to a proper and fair trial under law, that therefore, this court should reverse and set aside his conviction and sentence and order a new trial, or in the alternative, reverse and set aside his conviction and sentence with orders to dismiss the prosecution.

EP 91-1189

On 1/4/66 the U.S. Court of Appeals for the Fifth Circuit, RICHARD CASE NAGELL, Appellant, vs. United States of America, Appellee, #21620 before the Hon. Chief Judge TUTTLE, Honorable Circuit Judge COLEMAN, and the Hon. District Judge HUNTER, the case was reversed with instructions for a new trial to be granted.

This opinion pointed out that every doctor who testified at the trial was of the opinion that NAGELL could distinguish between right and wrong on 9/20/63. As a result of the newly discovered evidence, which the defendant concealed as a result of a damaged brain and a diseased mind, three doctors, one of them an outstanding national authority on brain damage, are now prepared to testify that in their opinions he did not then know the difference between right and wrong. This put an entirely different face on the matter.

The Fifth Circuit Court of Appeals concluded its opinion with the following:

"We do not here infer any criticism of the trial court for denying the new trial motion. He was following a well beaten path, after handling with commendable and unusual patience what must have been a most exasperating trial experience.

"Reversed, with instructions that a new trial be granted."

One copy of this airtel is being furnished for the information of the Houston Office in view of the fact this matter was heard before the U.S. Court of Appeals for the Fifth Circuit at Houston, Texas.

One copy of this airtel is also being furnished

EP 91-1189

for the information of the Kansas City Office as subject is presently reported to be incarcerated in the Penitentiary at Leavenworth, Kansas.

Appropriate form errors have been scored.

THE SUBJECT HAS ATTEMPTED SUICIDE.

F B I

Date: 3/8/66

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P*)

RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EP

Re Bureau letter (form 0-1) received 3/4/66;
EP airtel to the Bureau, 1/11/66.

Referenced Bureau letter (form 0-1) requested
status and prosecutive action taken in this case.

This is to advise this subject, RICHARD CASE
NAGELL, was returned to the Federal District of West
Texas to the El Paso County Jail, 2/19/66. As reflected
in referenced El Paso airtel of 1/11/66, the conviction
of this subject in USDC at El Paso, Texas was reversed by
the 5th Circuit Court of Appeals 1/4/66.

On 3/4/66, AUSA [] was contacted
by SA HAROLD H. BOYCE at which time he advised that no
definite date had been set for a re-trial of this case.
He further advised the situation exists as it did prior
to and during the subject's original trial, of his
dissatisfaction with court-appointed counsel and the
possibility exists, pending decision of the Department,
of having the Veteran's Administration commit this
subject to an institution for psychiatric patients.

③ - Bureau
1 - El Paso
HHB/sc

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EX-103 10 MAR 10 1966

(4)

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

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EP 91-1189

pointed out that in the event any action is taken relative to this matter the El Paso Office will be immediately advised.

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The El Paso Office will continue to follow this matter and will advise the Bureau of any action taken.

F B I

Date: 4/8/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIR MAIL
(Priority)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P*)

SUBJECT: RICHARD CASE NAGELL, aka. ;
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EL PASO

Re El Paso airtel to the Bureau dated 3/8/66.

This is to advise that on April 7, 1966 AUSA [redacted] advised U.S. District Judge D. W. SUTTLE ordered subject, RICHARD CASE NAGELL, committed to the U. S. Medical Center in Springfield, Mo. for mental examination. In ordering NAGELL's commitment Judge SUTTLE directed that a written report be made by the hospital officials in 90 days before any new trial proceedings are taken. The Judge also directed that three letters written by NAGELL be entered as part of the defendant's record and sent to Springfield along with the Appeal Court opinion and a certified copy of the defendant's motion for a new trial and a transcript of the prior trial. He added that NAGELL will be taken to Springfield for this examination by the U. S. Marshal.

3-Bureau
1-El Paso

HHB:mad
(4)

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APR 11 1966

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Approved: _____ Sent _____ M Per _____
Special Agent in Charge

EP 91-1189

aside and the process dismissed with the intention of having NAGELL committed to a Veterans mental institution, was discussed with Judge SUTTLE. However, Judge SUTTLE refused to dismiss this case, favoring a new trial on the basis that the reports indicated NAGELL was mentally incompetent at the time of the crime but is not now. [redacted] advised Judge SUTTLE then denied a motion by the U. S. Attorney's Office to dismiss charges, and he has scheduled tentatively to go to trial in September or October of 1966 for the second time on instant BR charges.

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b7c

The El Paso Office will continue to follow this matter and will advise the Bureau of further action taken.

SUBJECT HAS ATTEMPTED SUICIDE.

F B I

Date: 8/4/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

| | |
|--------------|--|
| Mr. Tolson | |
| Mr. Belmont | |
| Mr. Mohr | |
| Mr. Wick | |
| Mr. Casper | |
| Mr. Callahan | |
| Mr. Conrad | |
| Mr. Felt | |
| Mr. Gale | |
| Mr. Rosen | |
| Mr. Sullivan | |
| Mr. Tavel | |
| Mr. Trotter | |
| Tele. Room | |
| Miss Holmes | |
| Miss Gandy | |

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P*)

RICHARD CASE NAGELL, aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63;
BR

OO: EP

Re EP airtel to the Bureau 4/8/66;
EP airtel to the Director 8/3/66.

For the information of the Bureau, the following information was inadvertantly left out of referenced El Paso airtel to the Bureau dated 8/3/66:

On 7/28/66, AUSA [] advised that this subject was recently returned from the U. S. Medical Center in Springfield, Missouri to El Paso, Texas. [] advised that the results of the psychiatric examination at the U. S. Medical Center reflected in substance that this subject was insane at the time of the commission of this crime on 9/20/63, but is considered sane at this time.

AUSA [] advised the Department had authorized the dismissal of this case; however, consultation with the U. S. District Judge D. W. SUTTLE concerning the possibility of having his conviction set

3- Bureau
2- El Paso (91-1189) (44-369)

HHB:cam (5)

S. G. * Wick

56 AUG 11 1966

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

b6
b7cb6
b7c

10 AUG 8 1966

EP 91-1139

Prior to talking with NAGELL, NAGELL's court-appointed attorney, [REDACTED] El Paso, Texas, was telephonically contacted and advised of his client's request to talk with an FBI Agent. [REDACTED] had no objection. [REDACTED] was advised, however, that unless his client had a complaint falling within the jurisdiction of the FBI or some other information of value to a Bureau investigation, NAGELL should bring his comments to the attention of his lawyer first. [REDACTED] concurred with this idea.

b6
b7C

On 8/2/66, SA RICHARD H. PICKEN, in the presence of SA [REDACTED] met with NAGELL at the El Paso County Jail, at which time NAGELL stated that the information he wished to relate pertained to the BR charge for which he is to be tried. He stated he had no information to discuss with the FBI Agents other than that pertaining to the BR charge. He made some nebulous remarks about things which had happened in 1949, 1959, and indicated that he would like to talk extensively about his tie-in with some sort of intelligence operation. In view of the fact that NAGELL has been interviewed by Agents of several field offices and since NAGELL rambles and because he evades being specific and in view of his mental condition which is still in question, he was not permitted the opportunity to rehash his life's story.

b6
b7C

NAGELL was told that he would not be contacted in the future due to prosecution pending against him and that if he had additional information bearing upon his BR case, he should furnish it directly to his attorney.

UACB, NAGELL's future requests to talk with an Agent from the El Paso Division will not be honored since it is felt that he is simply attempting to get someone to listen to him and really has nothing of a probative nature to furnish.

SUBJECT HAS ATTEMPTED SUICIDE.

F B I

Date: 8/3/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

| | |
|--------------|-------|
| Mr. Tolson | _____ |
| Mr. DeLoach | _____ |
| Mr. Mohr | _____ |
| Mr. Bishop | _____ |
| Mr. Casper | _____ |
| Mr. Callahan | _____ |
| Mr. Conrad | _____ |
| Mr. Felt | _____ |
| Mr. Gale | _____ |
| Mr. Rosen | _____ |
| Mr. Sullivan | _____ |
| Mr. Tavel | _____ |
| Mr. Trotter | _____ |
| Tele. Room | _____ |
| Miss Holmes | _____ |
| Miss Gandy | _____ |

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P)

RICHARD CASE NAGELL, aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63;
BR

OO: EP

Re EP airtel to Bureau 4/8/66;
Report of SA RICHARD H. PICKEN 7/25/66 at EP
and captioned [REDACTED] Deputy Sheriff, Bexar
County, San Antonio, Texas; ET AL; RICHARD CASE NAGELL -
VICTIM; CIVIL RIGHTS;"

Report of SA [REDACTED] 7/27/66 at
SA and captioned [REDACTED] Deputy Sheriff;
ET AL; RICHARD CASE NAGELL, aka. - VICTIM; CIVIL RIGHTS."

On 8/2/66, subject NAGELL who is still confined
in the El Paso County Jail, El Paso, Texas, awaiting trial
on the BR charge in the WDT, sent word to the El Paso
FBI Office that he desired to talk with an FBI Agent. It
was presumed at this time that NAGELL, in view of his
recent Civil Rights complaint (see references), desired
to make additional comment concerning the Civil Rights
matter or to lodge a new Civil Rights complaint.

3- Bureau
2- El Paso (91-1189) (44-369)

RHP:cam
(5)

REC-1 91-18339-50
EX-102 AUG 11 1966

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b7c

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

It is noted in an article appearing in the El Paso Times newspaper on April 8, 1966 the press referred to this hearing as a "stormy" session in which NAGELL again fired his court appointed attorneys, and NAGELL presented several letters he had written while in the El Paso County Jail, and in a parting shot as he was lead away by the U. S. Marshal, NAGELL called the hearing "a mockery of Justice".

The news article also pointed out that NAGELL had previously agreed to be placed in a Veterans Administration Hospital in Long Island, New York for examination and treatment providing he paid his own transportation, while he reportedly agreed to this arrangement, he again changed his mind on Thursday, April 7, 1966, and discharged attorney [redacted] and attorney [redacted] as his attorneys.

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The El Paso Office will continue to follow this matter and will advise the Bureau of further action taken.

DECODED COPY

Tolson _____
 DeLoach _____
 Mohr _____
 Wick _____
 Casper _____
 Callahan _____
 Conrad _____
 Felt _____
 Gale _____
 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

☐ AIRGRAM ☐ CABLEGRAM ☒ RADIO ☐ TELETYPE

R-55

URGENT 9-1-66 1:42 PM

TO DIRECTOR, WASHINGTON FIELD AND CHICAGO
 FROM EL PASO 011622

RICHARD CASE NAGELL, AKA; STATE NATIONAL BANK OF EL PASO,
 EL PASO, TEXAS, SEPTEMBER 20, 1963, BANK ROBBERY.

RE EL PASO AIRTEL TO BUREAU, AUGUST 4, LAST; WFO
 AIRTEL TO BUREAU, JUNE 4, 1964; CG AIRTEL TO EL PASO,
 MARCH 23, 1964.

AUSA [REDACTED] AUGUST 31, LAST, ADVISED THIS
 CASE, AFTER REVERSAL BY US FIFTH CIRCUIT OF APPEALS ON
 JANUARY 4, LAST, IS SCHEDULED FOR RETRIAL IN US DISTRICT
 COURT, EL PASO, TEXAS, SEPTEMBER 19, NEXT. HE ADVISED DR.

[REDACTED] US VETERANS HOSPITAL,
 DOWNEY, ILLINOIS, AND SPECIAL AGENT ROY J. MC DONALD, WFO,
 WILL BE NECESSARY WITNESSES FOR THE GOVERNMENT. THE AUSA REQUESTS
 EXPEDITE VERIFICATION OF THEIR PRESENT WHEREABOUTS FOR OFFICIAL
 SUBPOENA. SUBJECT HAS ATTEMPTED SUICIDE.

REC-24

91-18351-51

EX-110

RECEIVED: 2:12 PM EFH

2 CC: WASHINGTON FIELD

cc: Mr. L. H. [Signature]

9/2/66

1 - Mr. Huppert

Airtel

To: SAC, El Paso (91-1189)

From: Director, FBI (91-18339) - 51

RICHARD CASE ¹¹⁰ NAGELL, AKA;
STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS
9/20/63
BR

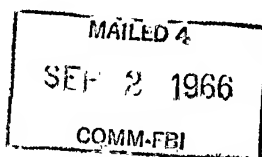
ReEPradgram, dated 9/1/66.

SA Roy J. McDonald is still assigned to the Washington Field Office and will be available for necessary testimony at subject's re-trial 9/19/66.

El Paso will insure that SA McDonald's presence at El Paso will be held to an absolute minimum.

2 - Washington Field Office (91-1770)

JDH:ja11
(6)



Tolson _____
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Mohr _____
Wick _____
Casper _____
Callahan _____
Conrad _____
Felt _____
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Sullivan _____
Tavel _____
Trotter _____
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Holmes _____
Gandy _____

103 MAIL ROOM ☒ TELETYPE UNIT ☐

F B I

Date: 9/7/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, WFO (91-1770) (P)

RICHARD CASE NACEIL, aka
State National Bank of El Paso,
El Paso, Texas, 9/20/63

BR

(OO:EP)

ReEPairtel, 9/2/63.

SA ROY J. MC DONALD, WFO, will report as directed.

REC 31

91-1189-152

(3) - Bureau

1 - El Paso (91-1189)

1 - WFO

12 SEP 7 1966

RJM:smm
(5) E.C. WickAIRTEL

54 SEP 12 1966

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

F B I

Date: 9/7/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIR MAIL
(Priority)

TO: DIRECTOR, FBI (91-18339)
FROM: *PS* SAC, EL PASO (91-1189) (P)
SUBJECT: RICHARD CASE NAGELL, aka;
State National Bank of El Paso,
El Paso, Texas
9/20/63
BR

OO: EP

Re Bureau airtel to EP dated 9/2/66.

AUSA advised he desires
SA ROY J. MC DONALD to appear as a witness in this case
September 19, 1966.

b6
b7cSUBJECT HAS ATTEMPTED SUICIDE.

3-Bureau
2-WFO (91-1770)
1-El Paso

HHB:mad
(6)

91-1189-53
REC-23 SEP 9 1966

Approved: _____ Sent _____ M Per _____

57 SEP 14 1966

Special Agent in Charge

1/7/66

1 - FOF
1 - Mr. Loetterle

AIRTEL

To: El Paso (91-1189)

PERSONAL ATTENTION

From: Director, FBI (91-18339) / 5

RICHARD CASE NAGELL, AKA.;
STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, 9/20/63

BR
(OO:EP)

ReBuairtel 12/30/65 and EPairtel 1/4/66.

As previously requested in referenced Buairtel, you should furnish a summary of the points raised in the appeal and the Government's answer thereto.

Appellant's brief and the Government's answer are returned herewith for your assistance in preparing this summary and should be returned with the summary to the Bureau.

Handle promptly and in the future, insure that an appropriate summary is included in the initial communication to the Bureau. Score appropriate form errors.

Enclosures (6)

VFL: gfs
(5)

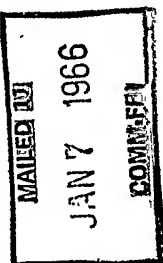
NOTE:

Appellant in a 73 page brief and three supplemental briefs alleges seven points of error in the trial in which subject received a 10-year sentence. The Government's answer consists of one 52 page brief and a six page brief. Current instructions provide that a summary is to accompany these briefs when submitted to the Bureau. El Paso did not do this.

57 JAN 14 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

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Rosen _____
Sullivan _____
Tavel _____
Trotter _____
Wick _____
Tele. Room _____
Holmes _____
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717083

F B I

Date: 1/4/66

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL REGISTERED
(Priority)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P*)

SUBJECT: RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EP

Re Bureau airtel to EP, dated 12/30/65;
EP letter to the Bureau, dated 12/20/65.

Pursuant to instructions in referenced Bureau airtel there are enclosed herewith, registered mail, the following briefs which were furnished by AUSA [redacted] El Paso, Texas:

1. Appellant's Opening Brief
2. Appellant's Reply to Government's Brief
3. Appellant's First Supplemental Brief
4. Appellant's Second Supplemental Brief

One copy of this airtel is being furnished for the information of the Houston Office in view of the fact this matter is being heard before the U.S. Court of Appeals

③ - Bureau (Encs. 4) (REG.AM)
1 - Houston (Info) (REG.AM)
1 - Kansas City (Info) (REG.AM)
1 - El Paso
HHB/sc
(6)

10 JAN 18 1966

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

b6
b7C

EP 91-1189

for the 5th Circuit under Docket #21620.

One copy of this airtel is also being furnished for the information of the Kansas City Office as subject is presently reported to be incarcerated in the penitentiary at Leavenworth, Kansas.

THE SUBJECT HAS ATTEMPTED SUICIDE.

12/30/65

1 - Mr. Loetterle

Airtel

To: SAC, El Paso (91-1189)

From: Director FBI (91-18339)-44

RICHARD CASE NAGELL, AKA;
STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, 9/20/63

BR

OO: EL PASO

ReEPlat 12/20/65.

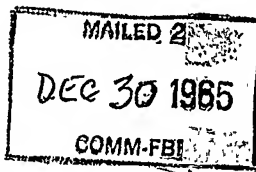
In accord with instructions set out in the Manual of Rules and Regulations, Part II, Section 8, page 22, you should obtain copies of appellant's brief and furnish same to the Bureau along with a summary of the points raised and the Government's answer thereto.

Handle immediately.

VFL:jall
(4)

NOTE: Relet advised of filing of appeal and enclosed appellee's briefs but did not enclose appellant's brief. While relet noted that according to the USA there were no derogatory allegations against the FBI it is felt that brief should be submitted for review in accord with present instructions.

Tolson _____
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Holmes _____
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53 JAN 13 1966

MAIL ROOM ☒ TELETYPE UNIT ☐

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (91-18339)

FROM : SAC, EL PASO (91-1189) (P*)

DATE: 12/20/65

SUBJECT: RICHARD CASE NAGELL, Aka.;
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EL PASO

Re report of SA THOMAS B. WHITE, JR., El Paso,
dated June 10, 1964.

For the information of the Houston and Kansas City Offices, this subject was found guilty by a jury in United States District Court, El Paso, Texas, on May 6, 1964, on two counts of Bank Robbery. A motion for a new trial was heard by the United States District Court at El Paso, Texas, on June 8, 1964, and on June 9, 1964, the motion was denied and this subject was sentenced to serve ten years under the provisions of Section 4208(a)(II), Title 18.

On December 14, 1965, Assistant U.S. Attorney [redacted] El Paso, Texas, advised through court appointed attorney, [redacted] El Paso, Texas, this subject filed an appeal in the United States Court of Appeals for the 5th Circuit, their case number 21620. [redacted] also pointed out that in the briefs filed by the appellant, there are no derogatory allegations made concerning the FBI. The Assistant U.S. Attorney furnished this office with the enclosed Brief for Appellee and a Supplemental Brief for Appellee which were submitted by the Government to the United States Court of Appeals for the 5th Circuit in care of Mr. EDWARD W. WADSWORTH, Clerk, U.S. 5th Circuit Court of Appeals, c/o United States District Court, United States Court House, 515 Rusk Avenue, Houston, Texas.

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b7c

Assistant U.S. Attorney [redacted] pointed out the United States Court of Appeals for the 5th Circuit

b6
b7c

- 2 - Bureau (Encls. 2)
- 2 - Houston
- 1 - Kansas City (Info.)
- 1 - El Paso

HHB:st
(6)

REC-21

71-18339-44
1 DEC 22 1965

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



EP 91-1189

was scheduled to take this matter under consideration in December of 1965 and their decision is not expected to be rendered prior to February, 1966.

One copy of this letter is being furnished for the information of the Kansas City Office inasmuch as this subject is presently reported to be incarcerated at the Federal Penitentiary at Leavenworth, Kansas.

The Houston Office will follow with the United States Court of Appeals for the 5th Circuit, Docket Number 21620, and advise the Bureau, El Paso, and Kansas City Offices of the results of the decision reached by this court.

THE SUBJECT HAS ATTEMPTED SUICIDE.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1-AUSA, El Paso

Report of: SA THOMAS B. WHITE, JR. Office: EL PASO

Date: June 10, 1964

Field Office File No.: EP 91-1189 Bureau File No.: 91-18339

Title:

RICHARD CASE NAGELL
State National Bank of El Paso,
El Paso, Texas, 9/20/63

Character:

BANK ROBBERY

Synopsis:

Trial by jury commenced 5/4/64, and on 5/6/64, verdict of guilty on both counts of bank robbery was returned. Motion for a new trial heard by USDC, El Paso, on 6/8/64. On 6/9/64, motion denied and subject sentenced to serve ten years under provisions of Section 4208(a)(II), Title 18. THE SUBJECT HAS ATTEMPTED SUICIDE.

-C-

DETAILS:

AT EL PASO, TEXAS:

On May 4, 1964, a trial by jury was commenced in United States District Court, El Paso, Texas, presided over by the Honorable HOMER THORNBERRY, United States District Judge.

On May 6, 1964, jury returned a verdict of guilty on two counts of bank robbery.

Subject's attorneys filed a motion for a new

FEDERAL BUREAU OF INVESTIGATION

| | | | |
|--|------------------------------------|--|---|
| REPORTING OFFICE EL PASO | OFFICE OF ORIGIN EL PASO | DATE 6/10/64 | INVESTIGATIVE PERIOD 4/28/64 - 6/9/64 |
| TITLE OF CASE RICHARD CASE NAGELL, Aka State National Bank of El Paso, El Paso, Texas, 9/20/63 | | REPORT MADE BY SA THOMAS B. WHITE, JR. | TYPED BY mis |
| | | CHARACTER OF CASE BR | |

REFERENCES:

Re report of SA THOMAS B. WHITE, JR., dated 4/15/64,
at El Paso.

El Paso letter to the Bureau dated 4/28/64.

El Paso letter to the Bureau dated 5/6/64.

-C-

ENCLOSURES TO THE BUREAU:

Enclosed to the Bureau, one disposition sheet
and parole report.

-A*-

COVER PAGE

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|--|----------------------------|------------------------------|----|---------|--|
| APPROVED | SPECIAL AGENT IN CHARGE | DO NOT WRITE IN SPACES BELOW | | | |
| COPIES MADE: | | 41-1189-1 | 43 | REC- 49 | |
| 1-Bureau (91-18339) (Encls. 4) 1-AUSA, El Paso 1-El Paso (91-1189) | | JUN 18 1964 | | | |
| | | | | | |
| | | | | | |
| DISSEMINATION RECORD OF ATTACHED REPORT | | NOTATIONS | | | |
| AGENCY | | | | | |
| REQUEST RECD. | | | | | |
| DATE FWD. | | | | | |
| HOW FWD. | | | | | |
| BY | | | | | |

50 JUL 2 1964

EP 91-1189

trial.

On June 8, 1964, testimony was heard by the U.S. District Court, El Paso, in connection with the motion for a new trial.

On June 9, 1964, Federal Judge HOMER THORNBERRY denied the motion for a new trial and sentenced the subject to serve ten years under the provisions of Section 4208(a)(II), Title 18, U.S. Code, which provides that the subject can be released under parole at any time it is deemed advisable.

PAROLE REPORT

FEDERAL BUREAU OF INVESTIGATION

| | | |
|--|--|------------------------|
| Reporting Office EL PASO | Office of Origin EL PASO | Date 6/10/64 |
| Name of Convict with Aliases: RICHARD CASE NAGELL, Aka Joe Kramer, Joe Cramer, Robert C. Nolan | Report Made By SA THOMAS B. WHITE, JR. | Typed By mis |
| | Violation: BANK ROBBERY | |

Outline of Offense:

On September 20, 1963, the convict entered the State National Bank, El Paso, Texas, thrust a .45 caliber Colt blue steel short barrel revolver through the window, pointed it at a woman teller and exclaimed, "This is a real gun, lady". When teller fled from window to take cover, subject fired two shots into the wall above the head of the teller, fled from the bank where he entered a 1957 Ford, two-door, Birlane 500, and started to flee. On encountering [REDACTED]

b7D

Date and place of indictment;
or information filed:

Federal Grand Jury, San Antonio, Texas, 1/10/64. Con't next page

Code and section under which charged:

Section 2113, Title 18, U.S. Code.

Section under which sentenced:

Section 4208(a)(II), Title 18, U.S. Code.

Date and nature of plea:

5/4/64, not guilty.

Date and place of conviction:

5/6/64, U.S. District Court, El Paso, Texas.

Date and duration of sentence:

6/9/64, ten years.

Fines:

None

Aggravating or Mitigating circumstances:

This convict has an outstanding war record in connection with the Korean conflict and was wounded on several occasions. He was the lone survivor of a military aircraft crash in 1954, at which time he suffered severe head injuries. Has had psychiatric treatment in numerous Veterans Administration Hospitals.

ENCLOSURE

Con't next page

| | | | |
|--------------------------------|-------------------------|------------------------------|--|
| Approved <i>[Signature]</i> | Special Agent in Charge | Do Not Write in Spaces Below | |
| Copies Made: | | 91-18339-43 | |
| 3 - Bureau (91-18339) | | | |
| Dissemination at SOG | | | |
| 2 - Bureau of Prisons | | | |
| Date Fwd.: 6/10/64 | | | |
| By: TBW:mis | | | |
| 1 - El Paso (91-1189) | | | |
| (4) | | | |

EP 91-1189

OUTLINE OF OFFENSE: (Con't)

Patrolman, subject surrendered and taken into custody.

AGGRAVATING CIRCUMSTANCES: (Con't)

This offense is aggravated since he fired two shots in a heavily crowded bank at the time of the attempted hold up. He refused to cooperate with five separately appointed court attorneys, refused to cooperate with various psychiatrists and has indicated a desire to commit suicide.

F B I

Date: 6/11/64

Transmit the following in _____
(Type in plain text or code)

AIRTEL

AIR MAIL

Via _____
(Priority or Method of Mailing)

TO: DIRECTOR, FBI (91-18339)

FROM: ~~X~~SAC, EL PASO (91-1189) (C)SUBJECT: RICHARD CASE NAGELL, Aka.
State National Bank of El Paso,
El Paso, Texas, 9/20/63
BR

OO: EL PASO

Re attached report of SA THOMAS B. WHITE, JR. dated
6/10/64 at El Paso.

Referenced report reflects the conviction and
sentencing of subject following verdict of guilty on 5/6/64
and argument on motion for new trial heard by U.S. District
Court, El Paso, on 6/4/64. On 6/9/64, the motion was denied
and subject was sentenced.

I would like to call to the attention of the
Bureau the unusually fine job done by Assistant United
States Attorneys, [] and []
who are assigned to the United States Attorney's Office at
El Paso, Texas, and under the supervision of ERNEST MORGAN,
United States Attorney, with offices at San Antonio, Texas.

Both [] and [] handled the prosecution
of RICHARD CASE NAGELL and did a splendid job in securing a
jury verdict of guilty to charges of Bank Robbery on May 6, 1964,

3 - Bureau (Encls. 5)

2 - El Paso (1 - 91-1189) (1 - 66-1366)

HEH:st

(5) See page 2A for recommendations of General
Investigative Division

C.C. Wick

Approved: F-57

Sent _____ M

Per _____

Special Agent in Charge

b6
b7c

1 JUN 12 1964

R17

EP 91-1189

in U.S. District Court at El Paso, Texas. They were confronted with numerous problems in the prosecution of this individual who was defended by very able counsel. Subject NAGELL had a brilliant war record, but suffered injuries during airplane crash of which he was the sole survivor. This has caused a complete personality change on the part of the subject. He was a source of constant irritation ever since his arrest and during the entire period of his confinement. He made numerous allegations which [] and [] were most helpful in refuting. On 6/8/64, Messrs. [] and [] presented a masterful summation of the Government's case at the time of hearing of the motion for a new trial. This hearing lasted the entire day and included testimony by Agents at El Paso and from the Washington Field Office. The defense raised the issue that the Government had concealed possible testimony valuable to the defense. The AUSAS were diligent in refuting this claim and clearly pointed out that due notice had been given both from the FBI to the United States Attorney's Office and from the United States Attorney's Office to defense counsel. The manner in which Messrs. [] and [] conducted themselves undoubtedly contributed greatly to the successful conclusion of this case.

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The indices of the El Paso Office reflect no derogatory information concerning either [] or []. It is recommended that individual letters of appreciation be directed to them by Mr. HOOVER and additionally that a letter be directed to United States Attorney ERNEST MORGAN, San Antonio, Texas, calling to his attention the splendid manner in which Messrs. [] and [] handled this case.

b6
b7C

HOXIE

June 18, 1964

Honorable Ernest Morgan
United States Attorney
Post Office Box 1701
San Antonio, Texas 78206

Dear Mr. Morgan:

It is a pleasure to write in connection
with the excellent manner in which Assistant United
States Attorneys [redacted] and [redacted]
[redacted] represented the Government in the prosecution
of Richard Case Nagell.

Their thorough preparation and capable
handling in court are evident through the results obtained.
These efforts reflect credit upon your office and my
associates and I extend congratulations to them.

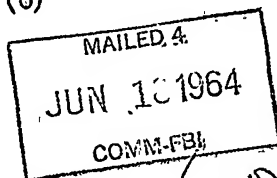
Sincerely yours,

J. Edgar Hoover

1 - El Paso (91-1189)
Reurairtel 6-11-64

NOTE: Correspondent is on the Special Correspondents' List.
Bufiles contain no derogatory information concerning [redacted]
and [redacted] By letter 4-4-63, the Director wrote [redacted] and thanked
him for his assistance to the prosecution of the case involving
[redacted]

RR:rls (6)



JUN 18 5 20 PM '64

RECEIVED DIRECTOR

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Belmont _____
Mohr _____
Casper _____
Callahan _____
Conrad _____
DeLoach _____
Evans _____
Gale _____
Rosen _____
Sullivan _____
Tavel _____
Trotter _____
Tele. Room _____
Holmes _____
Gandy _____

MAIL ROOM ☐ TELETYPE UNIT ☐

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REC'D-READING ROOM
FBI

JUN 18 2 07 PM '64

ORIGINAL FILED IN 91-1189-1321

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F B I

Date: 6/1/64

Transmit the following in PLAIN TEXT
 (Type in plain text or code)
 Via TELETYPE
URGENT

(Priority or Method of Mailing)

| | |
|--------------|--|
| Mr. Tolson | |
| Mr. DeLoach | |
| Mr. Mohr | |
| Mr. Bishop | |
| Mr. Casper | |
| Mr. Callahan | |
| Mr. Conrad | |
| Mr. Felt | |
| Mr. Gale | |
| Mr. Rosen | |
| Mr. Sullivan | |
| Mr. Tavel | |
| Mr. Trotter | |
| Tele. Room | |
| Miss Holmes | |
| Miss Gandy | |

TO: DIRECTOR, FBI (91-18339) AND
 SAC, EL PASO (91-1189)

FROM: SAC, WFO (91-1770)

ROBERT CASE NAGELL, AKA, STATE NATIONAL BANK OF EL PASO,
 TEXAS, SEPTEMBER TWENTY, NINETEEN SIXTYTHREE, BR.

RE EL PASO TELETYPE MAY TWENTYEIGHT LAST. ELPASO
 RECONTACT AUSA ☐ TO DETERMINE IF PRESENCE SA MCDONALD
 ABSOLUTELY NECESSARY SINCE ONLY POSSIBLE TESTIMONY ON INDICATED
 DEFENSE MOTION FOR NEW TRIAL WOULD BE HEARSAY INFORMATION
 OBTAINED FROM DR. EDWIN WEINSTEIN, WHO WILL BE AVAILABLE AS A
 RESULT OF THE DEFENSE SUBPOENA, AND WHO REQUESTED INFORMATION
 FURNISHED BUREAU BE MADE AVAILABLE ONLY THROUGH ISSUANCE
 SUBPOENA.

IF APPEARANCE SA MCDONALD DEEMED ABSOLUTELY NECESSARY,
 REQUEST AUSA ☐ TO ADVISE PURPOSE OF MCDONALDS APPEARANCE,
 AND NATURE OF TESTIMONY ANTICIPATED.

② - Bureau
 ② - Teletype Unit
 1 - WFO

RJM:eeb
 (5)

REC-129

2 JUN 3 1964

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Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

F B I

Date:

Transmit the following in _____
(Type in plain text or code)Via _____
(Priority or Method of Mailing)

WFO 91-1770

PAGE TWO

QUOTE DR. WEINSTEIN ADVISED OF A [REDACTED]

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QUOTE IT WAS THE OPINION OF DR. WEINSTEIN THAT THE SUBJECT STILL APPARENTLY NEEDED PSYCHIATRIC TREATMENT BUT HE HAS NOT SEEN HIM SINCE NINETEEN FIFTYFIVE AND WAS UNABLE TO EVALUATE HIS ACTIVITY SINCE THAT TIME. DR. WEINSTEIN ADVISED THE SUBJECTS COMPLETE MEDICAL RECORD WOULD BE RETAINED AT ST. LOUIS AND COULD BE MADE AVAILABLE UPON REQUEST. UNQUOTE

SINCE SA MCDONALDS TESTIMONY WOULD APPEAR TO SUPPORT, RATHER THAN REBUT, DR. WEINSTEINS TESTIMONY FOR THE DEFENSE, REQUEST FACTS AGAIN BE DISCUSSED WITH AUSA [REDACTED] TO DETERMINE DESIRABILITY OF SA MCDONALDS TESTIMONY. SUTEL.

b6
b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FBI

Date: 6/2/64

Transmit the following in PLAIN TEXT
 (Type in plain text or code)
 Via TELETYPE
URGENT

(Priority or Method of Mailing)

Mr. Tolson _____
 Mr. Belmont _____
 Mr. Mohr _____
 Mr. Casper _____
 Mr. Callahan _____
 Mr. Conrad _____
 Mr. DeLoach _____
 Mr. Evans _____
 Mr. Gale _____
 Mr. Rosen _____
 Mr. Sullivan _____
 Mr. Tavel _____
 Mr. Trotter _____
 Mr. Tele. Room _____
 Miss Holmes _____
 Miss Gandy _____

TO: DIRECTOR (91-18339) AND
 SAC, EL PASO (91-1189)

FROM: SAC, WFO (91-1770)

ROBERT CASE NAGELL, AKA, STATE NATIONAL BANK, EL PASO,
 TEXAS, SEPTEMBER TWENTY, SIXTYTHREE, BR. OO EL PASO.

RE EL PASO TELETYPE JUNE ONE LAST INDICATES PRESENCE
 SA MCDONALD NECESSARY TO REBUT TESTIMONY OF DR. WEINSTEIN.
 PAGE TWO REFERENCED TEL REFERS TO WFO AIRTEL TO EL PASO DATED
 OCTOBER EIGHT SIXTYTHREE SETTING FORTH RESULTS OF SA MCDONALDS
 INTERVIEW WITH DR. WEINSTEIN. NOTE WFO AIRTEL DOES REFLECT
 TREATMENT BY DR. WEINSTEIN IN NINETEEN FIFTYFIVE,

b7D

PAGE TWO OF WFO AIRTEL TO EL PASO DATED OCTOBER EIGHT
 SIXTYTHREE IS QUOTED AS REPORTED COLON

- 2 - Bureau
- 2 - Teletype Unit
- 1 - WFO

RJM:eeb
 (5)

EX-101

REC-17

JUN 3 1964

Approved: 117 T 889
 Special Agent in Charge

Sent _____ M Per _____

F B I

Date: 6/4/64

Transmit the following in _____
(Type in plain text or code)Via AIRTEL _____
(Priority or Method of Mailing)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, WFO (91-1770)

ROBERT CASE NAGELL, aka
State National Bank,
El Paso, Texas, 9/20/63
BR
(OO:EP)

ReEPtel 6/2/64.

SA ROY J. MC DONALD will be present El Paso,
8:00 a.m., 6/8/64.

REC-97

91-18339 40
15 JUN 4 1964

1-d 3 - Bureau
2 - El Paso (AM)
1 - Washington Field

RJM:nln
(6)

AIRTELApproved: [Signature]
Special Agent in Charge

Sent _____ M Per _____

C C-5 JUN 10 1964

Tolson _____
 Belmont _____
 Mohr _____
 Casper _____
 Callahan _____
 Conrad _____
 DeLoach _____
 Evans _____
 Gale _____
 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

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☐ AIRGRAM ☐ CABLEGRAM ☒ RADIO ☐ TELETYPE

DEFERRED 6-17-64
 TO DIRECTOR
 FROM EL PASO 171632

① RICHARD CASE NAGELL, AKA., STATE NATIONAL BANK OF EL PASO,
EL PASO, TEXAS, SEPTEMBER 20, 1963; BR. 00: EL PASO.

FOR INFORMATION OF BUREAU, ON JUNE 16 LAST NAGELL
 ATTEMPTED SUICIDE, WHILE IN EL PASO COUNTY JAIL, BY SWALLOWING
 SIX OR SEVEN TRANQUILIZERS. JAILORS, ON DOCTOR'S ORDERS
 WERE GIVING NAGELL FOUR PILLS PER DAY, ONE AT A TIME, AND
 JAIL OFFICIALS ARE OF OPINION NAGELL ACCUMULATED PILLS BY
 PALMING PILLS WHILE PRETENDING TO SWALLOW THEM. NAGELL TAKEN
 TO HOSPITAL AT LA TUNA FOR AND IS REPORTED RESTING COMFORT-
 ABLY AND IS EXPECTED TO RECOVER FULLY.

RECEIVED: 2:57 PM TRM

REC-34

71-18339-41

6/28

53 JUN 22 1964

RECOMMENDATIONS OF THE GENERAL INVESTIGATIVE DIVISION 6/15/64 FDT:cad

The General Investigative Division concurs in the observation of the SAC, El Paso, that the performance of the Assistant U. S. Attorneys [redacted] and [redacted] is of such a nature as to warrant letters of appreciation from the Director. It is noted that the AUSA's were diligent in refuting allegations against the Bureau. Rather than direct individual letters to AUSA's [redacted] and [redacted] the General Investigative Division recommends that a single letter be directed to United States Attorney Ernest Morgan, San Antonio, Texas, expressing through him the Director's appreciation to AUSA's [redacted] and [redacted]. It is recommended that this communication be routed to the Crime Records Division in order that an appropriate letter may be prepared.

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b7C

R. J. [unclear] *ris* *[unclear]* *zoo*

[unclear]

11 35 PM 5/28/64

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

FBI WASH DC*

MAY 28 1964

TELETYPE

| | |
|--------------|--|
| Mr. Tolson | |
| Mr. DeLoach | |
| Mr. Mohr | |
| Mr. Bishop | |
| Mr. Casper | |
| Mr. Callahan | |
| Mr. Conrad | |
| Mr. Felt | |
| Mr. Gale | |
| Mr. Rosen | |
| Mr. Sullivan | |
| Mr. Tavel | |
| Mr. Trotter | |
| Tele. Room | |
| Miss Holmes | |
| Miss Gandy | |

FBI EL PASO

7-13 PM MST DEFERRED 5-28-64 RAR

TO DIRECTOR (91-18339) AND WASHINGTON FIELD (91-1770)

FROM EL PASO (9L-1129)

ROBERT CASE NAGELL, AKA, STATE NATIONAL BANK OF EL PASO, TEXAS
SEPTEMBER TWENTY NINETEEN SIXTY THREE, BR.

AUSA [REDACTED] DESIRES PRESENCE OF SA ROY J. MC DONALD AT
EL PASO ON JUNE EIGHT NEXT AT EIGHT A.M. DEFENSE ATTORNEYS FOR
NAGELL HAVE FILED A MOTION FOR A NEW TRIAL BASED ON THEIR ALLEGATION
THAT GOVERNMENT FAILED TO DIVULGE INFORMATION FURNISHED TO SA

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DEFENSE HAVE

FOR HEARING. AUSA

REQUESTED THAT

b7D

SA MC DONALD

SA MC DONALD BELIEVED NOW ASSIGNED TO WFO.

END AND ACK PLS

JMS

REC-129

FBI WASH DC*

TWO COPIES WFO

CLR@

91-18339-39

*6/5/64
This is necessary
YSA Mc Donald assigned
since he can get tip
only on the what is
We immediate follow-up
6/8/64*

b7D

72 JUN 8 1964
FBI - WASHINGTON

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 2 1964 *led*

TELETYPE

| | |
|--------------|--|
| Mr. Tolson | |
| Mr. DeLoach | |
| Mr. Mohr | |
| Mr. Casper | |
| Mr. Callahan | |
| Mr. Conrad | |
| Mr. Felt | |
| Mr. Gale | |
| Mr. Rosen | |
| Mr. Sullivan | |
| Mr. Tavel | |
| Mr. Trotter | |
| Tele. Room | |
| Miss Holmes | |
| Miss Gandy | |

*NA 7:30 P
6-2-64*
FBI WASH DC*

FBI EL PASO

353 PM MST URGENT 6-2-64 LMT

TO DIRECTOR (91-18339) AND WFO (91-1770)
FROM EL PASO (91-1189)

ROBERT CASE NAGELL, AKA; STATE NATIONAL BANK, EL PASO, TEXAS,
SEPTEMBER TWENTY, SIXTYTHREE, BANK ROBBERY, OO. EL PASO.

RE WFO TEL TODAY.

AUSA [] INSISTS UPON PRESENCE OF SA ROY J. MC DONALD
ON JUNE EIGHT NEXT AT EIGHT AM INASMUCH AS HE FEELS DR. WEINSTEIN
MAY ELABORATE ON HIS TESTIMONY AS TO THE RESULTS OF HIS PERSONAL EXAM-
INATION OF NAGELL IN NINETEEN FIFTY FIVE. AUSA [] DOES NOT DESIRE
A PRODUCTION []

[] WAS SUBPOENAED AND TESTIFIED AT ORGINAL TRIAL
AS TO HIS EXAMINATION. IT IS EXPECTED THAT DR. WEINSTEIN WILL BE
REQUIRED TO TESTIFY AS TO THE RESULTS OF HIS OWN PERSONAL EXAMINATION
AND IF HE DOES ELABORATE ON HIS TESTIMONY, THEN IT WILL BE NECESSARY
FOR SA MC DONALD TO TAKE THE STAND AND REBUT THIS TESTIMONY []

END PAGE ONE.

12 JUN 3 1964

CV
TWO COPIES WFO

61 JUN 8 1964

cc - Thompson

PAGE TWO.

IF TESTIMONY OF DR. WEINSTEIN FOLLOWS THE INFO WHICH HE FURNISHED TO SA MC DONALD, THEN MC DONALD WILL NOT BE REQUIRED TO TESTIFY BUT IF HE IS REQUIRED TO FURNISH REBUTTAL TESTIMONY, HE CANNOT DO SO UNLESS HE IS PRESENT AT EIGHT AM ON JUNE EIGHT NEXT.

END NHH

FBI WASH DC*

@

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 1 1964

TELETYPE

| | |
|--------------|-------|
| Mr. Tolson | _____ |
| Mr. Belmont | _____ |
| Mr. Mohr | _____ |
| Mr. Casper | _____ |
| Mr. Callahan | _____ |
| Mr. Conrad | _____ |
| Mr. DeLoach | _____ |
| Mr. Evans | _____ |
| Mr. Gale | _____ |
| Mr. Rosen | _____ |
| Mr. Sullivan | _____ |
| Mr. Tavel | _____ |
| Mr. Trotter | _____ |
| Tele. Room | _____ |
| Miss Holmes | _____ |
| Miss Gandy | _____ |

FBI WASH DC*

FBI EL PASO

4-03 PM MST URGENT 6-1-64 WPS

TO DIRECTOR (91-18339) AND WASHINGTON FIELD (91-1770)

FROM EL PASO (91-1189) -P- 2P

ROBERT CASE NAGELL, AKA.; STATE NATIONAL BANK, EL PASO, TEXAS, SEPT.
TWENTY, SIXTYTHREE. BR.

REMYTEL DTD. MAY TWENTYEIGHT LAST AND WFO TEL TO BUREAU AND EL PASO
DTD. JUNE ONE PRESENT.

AUSA, [REDACTED] RE-CONTACTED AND ADVISES THAT PRESENCE OF SA
ROY J. MC DONALD IS ABSOLUTELY ESSENTIAL IN CONNECTION WITH MOTION FOR
A NEW TRIAL FILED BY DEFENSE ATTORNEYS. THEY HAVE TELEPHONICALLY CON-
TACTED DR. EDWIN A. WINSTEIN AND DEFENSE ATTORNEYS CLAIM THAT DR.
WINSTEIN TOLD THEM THAT HIS EXAMINATION REVEALED THAT NAGELL HAD
SUFFERED PERMANENT BRAIN DAMAGE AS A RESULT OF AIRCRAFT ACCIDENT WAS IN
NEED OF PSYCHIATRIC TREATMENT AND HE IS STILL IN NEED OF SUCH TREATMENT.

DEFENSE ATTORNEYS HAVE SUBPOENAED DR. WINSTEIN AND HAVE INDICATED
THAT GOVERNMENT HAS ACTED IN BAD FAITH BY NOT FURNISHING ABOVE INFO TO
THEM IN THEIR DEFENSE OF NAGELL.

AUSA [REDACTED] DESIRES PRESENCE OF SA R. J. MC DONALD FOR PURPOSE OF
END PAGE ONE

REC-102

67-18339-35

JUN 2 1964

JUN 5 1964

TWO COPIES WFO

cc: Thompson

PAGE TWO

REBUTTAL WITNESS TO TESTIMONY OF DR. WINSTEIN.

WFO AIRTEL DTD. OCT. EIGHT, SIXTYTHREE SETTING FORTH SA MC DONALD'S INTERVIEW WITH DR. WINSTEIN DOES NOT REVEAL THAT WINSTEIN FURNISHED SUCH INFO TO SA MC DONALD THAT NAGELL HAD SUFFERED PERMANENT BRAIN DAMAGE AND IN NEED OF PSYCHIATRIC TREATMENT AND POSSIBLY STILL IN NEED OF SUCH TREATMENT.

PRESENCE OF MC DONALD ESSENTIAL TO REBUT THIS TESTIMONY AND TO FURNISH THE INFO SUPPLIED TO HIM BY DR. WINSTEIN WHEN MC DONALD INTERVIEWED HIM ON SEPT. THIRTY, SIXTYTHREE.

SA MC DONALD MUST BE IN EL PASO ON JUNE EIGHT NEXT AT EIGHT A.M.

END

WA LLD

FBI WASH DC*

@

WFO



By Date 7/20/20

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F B I

5/6/64

Date:

Transmit the following in _____
(Type in plain text or code)

AIRTEL

AIRMAIL

Via _____
(Priority or Method of Mailing)

TO: DIRECTOR, FBI (91-18339)

FROM: SAC, EL PASO (91-1189) (P)

RE: RICHARD CASE NAGELL, Aka;
STATE NATIONAL BANK OF EL PASO
EL PASO, TEXAS
SEPTEMBER 20, 1963
BANK ROBBERY

OO: EL PASO

Trial by jury commenced May 4, 1964, and on May 6, 1964, a verdict of guilty on both counts of bank robbery was returned.

Upon verdict being read by Clerk, of the U.S. District Court, El Paso, subject caused a demonstration in the courtroom and had to be forcibly removed by three U.S. Deputy Marshals.

HOXIE

3-Bureau (1-64-48933)
2-El Paso (91-1189) (65-951)
TBW:mis
(5)

EX-108

REC- 34

91-18339-34

20 MAY 9 1964

Tolson

Wick

Approved: _____

Sent _____ M Per _____

Special Agent in Charge